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LEGISLATIVE ASSEMBLY
OF THE
PROVINCE OF ONTARIO

BILLS

**AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS**

SESSION

APRIL 22, 1986 to JULY 10, 1986
and
OCTOBER 14, 1986 to DECEMBER 18, 1986
and
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Bill 50

An Act to amend the Residential Tenancies Act

Mr. Shymko

1st Reading June 3rd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to exempt an agreement from the Act whereby a landlord waives a right in favour of the tenant.

Bill 50

1986

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) This Act does not apply to an agreement between a landlord and tenant under which the landlord agrees not to exercise any or all of the landlord's rights under this Act or waives such rights in favour of the tenant. Exemption

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Residential Tenancies Amendment Act, 1986*. Short title

Bill 51

An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes

The Hon. A. Curling
Minister of Housing

1st Reading June 5th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill replaces Bill 78, introduced and given first reading at the last Session of the Legislature and subsequently withdrawn, and incorporates in large measure the recommendations made to the Minister of Housing by the Rent Review Advisory Committee in its report submitted to the Minister on the 18th day of April, 1986.

The Bill replaces the provisions of the *Residential Tenancies Act* that govern rent review matters with a new Act, to be called the *Residential Rent Regulation Act, 1986*. Among the principal features of the new Act proposed by the Bill are the following:

1. The percentage amount by which a landlord may increase the rent chargeable for a rental unit without applying for an order permitting the landlord to do so is set at 4 per cent in respect of rent increases that take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987; in respect of rent increases that take effect on or after the 1st day of January, 1987, and on or after the 1st day of January in subsequent years, the percentage will be that set out in the Residential Complex Cost Index as published annually by the Minister. The Index is calculated in accordance with the formula set out in Schedule A to the Bill.
2. Two categories of rental units that are exempt from rent review under the *Residential Tenancies Act* are, under the Bill, made subject to rent regulation effective the 1st day of August, 1985. These are,
 - i. a rental unit situate in a building, no part of which was occupied as a rental unit before the 1st day of January, 1976, and
 - ii. a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976.
3. A landlord who desires to increase the rent charged for a rental unit by more than the relevant percentage is required to apply, in the first instance, to the Minister of Housing for an order permitting the landlord to do so. The authority to consider such an application and make an order may be delegated by the Minister to named officials of the Ministry of Housing. Procedures are set out in the Bill to be followed where such an application is made.
4. A board to be known as the Rent Review Hearings Board is established to which a landlord or a tenant may appeal from an order made on the initial application. A further appeal lies on a question of law from an order of that Board to the Divisional Court. No filing fees are required in respect of an appeal to the Board nor, in the case of a tenant appeal, is there a requirement that any number or proportion of tenants bring the appeal. Provision is made for the holding of a pre-hearing conference to discuss matters relevant to the conduct of an appeal to the Board.
5. Provision is made for the establishment of a rent registry that will initially compile information on the rent charged and other relevant matters in respect of residential complexes containing more than six rental units; residential complexes that contain six or fewer rental units will be brought into the registry at a later date to be prescribed, although a landlord of such a residential complex may voluntarily file the information in respect of that complex at any earlier time. Landlords will be required to file the actual rent being charged for a rental unit on the 1st day of July, 1985, or if a rental unit is not rented on that date, the rent charged when it is first rented. Tenants may dispute within a specified time period the amount of the actual rent as recorded in the rent registry; otherwise the rent recorded is deemed to be the lawful rent. Landlords who register within the time specified for doing so will not be liable to an order requiring a rebate of any excess rent that may have been collected prior to August 1st, 1985; those who do not will remain liable to an order requiring

a rebate of any excess rent collected during the six year period preceding the date of any application for rebate. After January 1st, 1987, no application under the Act made by a landlord who has not registered will be proceeded with whether the time for doing so has expired or not. Provision is made for the Minister to investigate on his or her own initiative the level of the rent charged for a rental unit to determine if the rent is a lawful rent.

6. Where an order has been made under the *Residential Tenancies Act*, or is made under the new Act proposed by the Bill, for a rent increase because of an increase in financing costs that took effect on or after August 1st, 1985, at the time those increased costs are no longer borne by the landlord the Minister may require a reduction in the rents being charged.
7. The interim restraint on the pass-through of increased financing costs resulting from the purchase of a residential complex, contained in the *Residential Complexes Financing Costs Restraint Act, 1982*, is placed on a permanent footing. The suspension of the 2 per cent relief of hardship provision contained in that Act is, however, lifted. Restored also is the provision permitting equalization of rents for similar rental units, under certain conditions, which had been suspended under the operation of that Act.
8. The allowance for a landlord's increased operating costs will be calculated in accordance with the formula set out in Schedule B to the Act.
9. In respect of pre-1976 residential complexes whose rent is "chronically depressed", as defined, provision is made for an allowance to be phased in to bring the rents to a level where they are no longer depressed.
10. In respect of post-1975 residential complexes whose landlords are experiencing an "economic loss", as defined, provision is made for an allowance to be phased in to bring the rents to a level where the landlord no longer experiences an economic loss.
11. A landlord and one or more tenants may jointly apply to determine the rent increase that will be permitted because of capital expenditures incurred or to be incurred that will affect some but not all of the rental units in a residential complex.
12. Without bringing an application to increase rents, a landlord may apply for an order permitting equalization over a period of time of the rents charged for similar rental units within a residential complex; a limit is set on the amount of rent increase attributable to equalization that may be charged for any rental unit.
13. There will be a Residential Rental Standards Board empowered to develop and establish appropriate maintenance standards to apply to all residential complexes.
14. The extraction of additional charges (sometimes referred to as key money) as a condition to renting or subletting any rental unit is made an offence under the Act.
15. The Lieutenant Governor in Council is empowered to prescribe by regulation procedural and interpretative rules and policies and these will be binding on the Minister or the Minister's delegates and on the Board in the interpretation and administration of the Act; additional extensive regulation-making powers are conferred on the Lieutenant Governor in Council to prescribe in detail the manner in which applications under the Act will be dealt with.
16. The Bill contains an expanded offences provision; it will, for example, be an offence for a landlord to charge a rent that is in excess of that permitted under

the Act or to fail to file the information required for the purposes of the rent registry.

17. Provisions are included in the Bill that set out the consequences, and the procedures to be followed, where a landlord has increased the rent charged for a previously exempt rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent.

Bill 51**1986**

**An Act to provide for the
Regulation of Rents charged for
Rental Units in Residential Complexes**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Board" means the Rent Review Hearings Board established under this Act;

"economic loss" means the loss experienced by a landlord whose rate of return on a residential complex does not result in a financial loss but does result in a return on the landlord's invested equity and capitalized losses that is less than the rate of return made applicable to that residential complex by subsection 77 (1);

"landlord" includes the owner, or other person permitting occupancy of a rental unit, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

"mail" means first-class, registered or certified mail;

"maximum rent" means the lawful maximum rent which could be charged for a rental unit had all permissible statutory or other increases which could have been taken on or after the 1st day of August, 1985, been taken;

"Minister" means the Minister of Housing or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“Ministry” means the ministry of the Minister;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

“mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

“non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof,
- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

“prescribed” means prescribed by the regulations made under this Act;

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit and for any services and facilities, privilege,

accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing but does not include,

- (a) any amount required by the *Retail Sales Tax Act* to be collected from a tenant by a landlord, or R.S.O. 1980.
c. 454
- (b) any amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home, or a home which is a permanent structure, owned by a tenant;

“rental unit” means any living accommodation, site for a mobile home or site on which a home is a permanent structure, used or intended for use as rented residential premises and includes a room in a boarding house or lodging house;

“residential complex” means a building, related group of buildings or mobile home park, in which one or more rental units are located and includes all common areas, services and facilities available for the use of residents of the building, buildings or park;

“services and facilities” includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning or maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities or services,

- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services or facilities;

“statutory increase” means the amount by which the rent charged for a rental unit may be increased without application to the Minister under this Act or may have been increased without application under the *Residential Tenancies Act* or under *The Residential Premises Rent Review Act, 1975 (2nd Session)*;

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

“subsidized public housing” means a rental unit rented to persons or families of low or modest income who pay an amount geared-to-income for that unit by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*;

R.S.C. 1970,
c. N-10
R.S.O. 1980,
cc. 209, 339

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

“tenant” means a person who pays rent in return for the right to occupy a rental unit and his or her heirs, assigns and personal representatives but does not include a person who has the right to occupy a rental unit by virtue of being a co-owner of the residential complex in which the rental unit is situate or a shareholder of a corporation that owns the residential complex, and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

Application
of Act

2.—(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Conflict
1981, c. 53

(2) Where a provision of this Act conflicts with a provision of any other Act, except the *Human Rights Code, 1981*, the provision of this Act applies.

Conflict with
provision in
written
agreement

(3) Notwithstanding subsection (1), where a provision in a written tenancy agreement between a landlord and a tenant conflicts with the provisions of this Act concerning the amount of rent which may be charged for a rental unit, and where the tenancy agreement was entered into before the 1st day of May, 1985, in respect of a rental unit which was, before the 1st day of August, 1985, exempt from Part XI of the *Residen-*

R.S.O. 1980,
c. 452

tial Tenancies Act under clause 134 (1) (c) or (d) of that Act, the provision in the agreement applies to the rental unit so long as the tenant who entered into the agreement remains the tenant of the rental unit.

(4) Notwithstanding subsection (1), where a written agreement between a landlord and a tenant, entered into before the day this section comes into force, contains a provision requiring the landlord to repay to the tenant any amount of rent that the landlord has charged in excess of that permitted by Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, or permitting the tenant to recover such an amount by deducting a sum from the tenant's rent for a number of rent payment periods, the provision applies notwithstanding anything to the contrary in this Act.

Idem

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

3. This Act is binding on the Crown.

Act binds
Crown

4.—(1) This Act does not apply to,

Exemptions
from Act

- (a) transient living accommodation provided in a hotel, motel, suite hotel, inn, tourist home or hostel;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,

- (i) the living accommodation is provided primarily to persons under the age of majority, or
- (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households;

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him or her of services related to, a non-residential business or enterprise carried on in the building or project;
- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit.

Idem

(2) This Act, except sections 5 and 6, does not apply to,

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply;
- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof;

- (c) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;
- (d) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

(3) This Act does not apply to an increase in the amount geared-to-income paid by a tenant in subsidized public housing who is occupying a rental unit, other than a unit referred to in clause (2) (a) or (b), but this Act does apply to the unit itself.

Subsidized
public
housing

PART I

NOTICE OF RENT INCREASES

5.—(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant a notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, intended to be made not less than ninety days before the end of,

Notice of
rent increase

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Increase
void where
no notice

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase takes effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice
unnecessary
for new
tenant

(4) A notice of rent increase given in compliance with this section and section 20 or in compliance with subsection 60 (1) and section 99 of the *Residential Tenancies Act* shall be deemed to be and always to have been sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

Notice of
rent
increase
deemed
in compliance
with
R.S.O. 1980,
c. 232,
ss. 123,
129 (1)

Where tenant fails to give notice of termination

6.—(1) Where a tenant who has been given a notice of an intended rent increase under section 5 fails to give the landlord proper notice of termination under the *Landlord and Tenant Act*, the tenant shall be deemed to have accepted the amount of rent increase that does not exceed the amount allowed under this Act.

Deemed acceptance not to constitute waiver of tenant's rights

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in subsection (1) does not constitute a waiver of the tenant's rights to take whatever proceedings are available under this Act in respect of the rent that may be charged for a rental unit.

Rent chargeable until order takes effect

7. Where a notice of an intended rent increase has been given under section 5, a rent increase up to the lesser of,

- (a) the intended rent increase specified in the notice; and
- (b) the limit imposed by section 68,

may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

PART II

GENERAL

Adminis-
tration

8. The Minister is responsible for the administration of this Act.

Minister may
establish
regions

9. The Minister may by order establish regions in Ontario for the purposes of this Act.

Proceedings
in region

10. All proceedings under this Act shall be held in the region in which the residential complex in question is situated unless the Minister or the Board, as the case may be, otherwise directs.

Duties of
Minister

11. The Minister shall,

- (a) provide information and advice to the public on all residential tenancy matters including referral where appropriate to social or community services and public housing agencies;
- (b) investigate cases of alleged failure to comply with an order made under this Act or to comply otherwise with the provisions of this Act and, where the

circumstances warrant, commence or cause to be commenced proceedings in respect of the alleged failure to comply;

- (c) take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations established by this Act; and
- (d) establish such committee or committees as the Minister considers advisable to periodically review and make recommendations, commencing in 1989, to the Minister concerning the Residential Complex Cost Index and the Building Operating Cost Index.

12. The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

Delegation

13.—(1) Subject to subsections (4) and (5), the Minister and, on an appeal or where a matter has been referred to it by the Minister, the Board, have exclusive jurisdiction to examine into and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Minister and the Board.

Exclusive jurisdiction of Minister and Board

(2) The Minister and the Board, in the interpretation and administration of this Act, shall observe such procedural and interpretative rules and policies as are prescribed.

Procedural and interpretative rules and policies

(3) The Minister, on the application of a landlord or a tenant, or on the Minister's own motion, may make an order determining,

Minister may determine application of Act, etc

- (a) whether this Act applies to a particular rental unit or residential complex;
- (b) the rental units, common areas, services and facilities that are included in a particular residential complex;
- (c) whether an agreement referred to in subsection 94 (4) has been entered into by a tenant as a result of some form of coercion exercised by the landlord; and

- (d) any other prescribed matter of concern respecting the application of this Act.

No order for
payment over
\$3,000

(4) In any proceedings under this Act, neither the Minister nor the Board shall make an order for the payment of money in excess of \$3,000, but where the Minister or the Board would be justified in making an order for the payment of money in excess of \$3,000, the person to whom the payment would otherwise be made may, by notice in writing in the prescribed form filed with the Minister or the Board, abandon the excess over \$3,000 and the Minister or the Board in that case may make an order for the payment of \$3,000 to the person and the abandonment extinguishes all rights in respect of the excess.

Court
jurisdiction

(5) Where, under this Act, a person claims a sum of money in excess of \$3,000, he or she may institute proceedings therefor in any court of competent jurisdiction and the court may exercise any powers that the Minister or the Board could have exercised had the proceedings been before the Minister or the Board.

Establishment
of Residential
Rental
Standards
Board

14.—(1) There shall be a board to be known as the Residential Rental Standards Board composed of such number of members as the Lieutenant Governor in Council appoints.

Functions

(2) The function of the Residential Rental Standards Board is to develop and establish,

- (a) appropriate maintenance standards to apply to all residential complexes and the rental units therein that are subject to this Act;
- (b) methods of ensuring that landlords and tenants are made aware of the requirements of the maintenance standards;
- (c) any other measures designed to ensure that all residential complexes and the rental units therein are kept and maintained in a fit condition for habitation as rented residential premises; and
- (d) methods of providing for adequate communication and consultation between the landlord and the tenants on a timely basis regarding proposed capital expenditures in respect of a residential complex.

Definitions

15.—(1) In this section,

“municipality” means a city, town, village and township;

"standards" means the maintenance standards established by the Residential Rental Standards Board.

(2) The council of every municipality is responsible for the enforcement of the standards in the prescribed manner.

Every municipality to enforce maintenance standards

(3) Where the council of a municipality determines that a residential complex, or any rental unit situate therein, does not comply with the standards, the council shall give notice in writing to the Minister of the non-compliance.

Notice to Minister of non-compliance

(4) Where the council of the municipality that has given notice to the Minister under subsection (3) determines that the residential complex and the rental units situate therein comply with the standards, the council shall give notice in writing to the Minister of the compliance.

Notice to Minister of compliance

(5) Where the Minister receives a notice under subsection (3), the Minister shall not proceed with any application by the landlord of the residential complex referred to in the notice for an increase in the rent of any rental unit situate therein nor shall the Board proceed with any appeal brought by the landlord in respect of an order made on the landlord's application unless,

Applications or appeals not proceeded with

(a) the Minister receives a notice under subsection (4); or

(b) the Minister or the Board, as the case may be, determines that the non-compliance arose by reason of matters beyond the control of the landlord or that for any other reason the application or appeal ought to proceed.

PART III

PROCEDURE

16. A person may make an application to the Minister as a landlord or as a tenant, provided the person was a landlord or a tenant at the time the conduct giving rise to the application occurred.

Who may make application

17.—(1) An application to the Minister shall be made in the prescribed form and shall be signed by the person making the application or his or her agent.

Form of application

(2) Where a landlord makes an application to the Minister and the name of any tenant directly affected by the appli-

Where name of tenant not known

cation is not known to the landlord, the name of the tenant may be shown in the application as "tenant" and all orders shall be binding on the tenant occupying the rental unit as if the tenant had been correctly named.

Where name of landlord not known

(3) Where a tenant makes an application to the Minister and the name of the landlord is not known to the tenant, the name of the landlord may be shown in the application as "landlord" and all orders shall be binding on the landlord as if the landlord had been correctly named.

Landlord must give copy of application to tenant, etc.

18.—(1) Where a landlord makes an application to the Minister, the landlord shall within ten days give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

Tenant must give copy of application to landlord

(2) Where a tenant makes an application to the Minister, the tenant shall within ten days give a copy of the application to the landlord.

Where new landlord or new tenant

(3) Where, before an order is made in respect of any application to the Minister, a landlord or tenant is succeeded by a new landlord or tenant, the applicant shall within ten days of becoming aware of such change give the new landlord or tenant a copy of the application.

Minister may give written directions

(4) The Minister shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Minister shall be deemed to be compliance with this section.

Extension of time for application, etc.

(5) The Minister may, whether or not the time for making an application to the Minister or giving a copy of the application to any party or filing any documents has expired and where the Minister is of the opinion that it would not be unfair to do so, extend the time for the making of the application to the Minister or giving the application to any party or the filing of any documents, and the Minister may attach such terms and conditions to the extension of time as the Minister considers appropriate and shall give notice in writing of the extension of time to all affected parties.

Application of subss. (1-5) to appeals

(6) The provisions of subsections (1) to (5) apply with necessary modifications to appeals to the Board under Part VII of this Act.

Non-application to joint applications

(7) This section, except for subsection (5), does not apply to a landlord and any tenants who jointly make an application

under section 83 or 86, or who jointly appeal an order made pursuant to the application.

19.—(1) A tenant who has sublet a rental unit may give notice in writing to the landlord that the tenant requires the landlord to give him or her a copy of any application made by the landlord under this Act or any other notice required to be given by the landlord under this Act that affects the rental unit that is the subject of the subletting and where the tenant does so the landlord shall give a copy of the application or other notice to the tenant by sending it by mail to the address set out in the notice given by the tenant.

Notice to
tenant where
rental unit
sublet

(2) The landlord shall, before entering into a tenancy agreement with a new tenant, inform the new tenant of the maximum rent for the rental unit and of any notice of rent increase given, any application made by the landlord under this Act and any order made in respect of such application, or of any appeal that is pending therefrom, that directly affects the rental unit.

Information
for
prospective
new tenant

20.—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by,

Method of
giving notice,
etc

(a) handing it to the person, or,

(i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or

(ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;

(b) leaving it in the mail box where mail is ordinarily delivered to the person;

(c) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or

(d) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing.

Where notice
given by
mail

(3) Despite the other provisions of this section, the Minister or the Board, as the case may be, may in writing direct a notice or document to be given in any other manner.

Minister or
Board may
give written
directions

Actual notice
is sufficient

(4) Despite the other provisions of this section, a notice or document shall be deemed to have been validly given where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended within the time for the giving of the notice or documents under this Act.

Computation
of time

(5) The computation of time under this Act shall be in accordance with prescribed rules.

Parties to
application
or appeal

21. The parties to an application or an appeal are the persons making the application or appeal, any person entitled, other than under subsection 18 (3), to receive a copy of the application or a notice of appeal and any person added as a party by the Minister or the Board.

Changing
parties;
amending
applications

22. Where, in any proceedings under this Act, the Minister or the Board is of the opinion that,

- (a) a person who should be included as a party has not been included as a party or that a party has been incorrectly named, the Minister or the Board, as the case may be, shall, unless it would be unfair to do so, require that the person be substituted or added as a party to the proceedings, or be correctly named;
- (b) a person who has been included as a party should not be included as a party, the Minister or the Board, as the case may be, shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application or the notice of appeal is justified and fair, the Minister or the Board, as the case may be, may direct the application or notice of appeal be amended accordingly.

Frivolous
or vexatious
applications
or appeals

23. The Minister or the Board, as the case may be, may refuse to continue any proceedings where, in the opinion of the Minister or the Board, as the case may be, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Withdrawing
application

24.—(1) An applicant may withdraw an application at any time before the time for submitting representations has ended and thereafter the application may only be withdrawn with the consent of the Minister and the Minister may impose terms on which his or her consent is given.

(2) A landlord who is party to a joint application under section 83 or 86 may withdraw the application as provided in subsection (1). Withdrawing joint application

(3) Where all the tenants who are parties to a joint application under section 83 or 86 desire to withdraw the application, they may do so as provided in subsection (1). Idem

(4) Where the tenants of less than all of the rental units subject to a joint application under section 83 or 86 desire to withdraw the application, they may withdraw their rental units from the application as if they were withdrawing an application under subsection (1) and the application shall continue in respect of the remaining rental units that are subject to the application. Idem

(5) A landlord or tenant may withdraw an appeal at any time before the hearing of the appeal has commenced but, where the hearing has commenced, the appeal may only be withdrawn with the consent of the Board and the Board may impose terms on which its consent is given. Withdrawing appeal

(6) Where an appeal of an order made under section 84 or 86 has been brought jointly by a landlord and one or more tenants, the appeal may be withdrawn under subsection (5) only where the landlord or all tenants who are parties to the appeal desire to withdraw the appeal. Withdrawing joint appeal

25.—(1) Where a landlord or a tenant makes an application other than under section 71 or 83, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed. Filing of documents by tenant

(2) Any party to an application referred to in subsection (1) may inspect the application and the documents and material filed in respect thereof and may submit representations in respect of the application and the material filed therewith not later than thirty days from the date of making the application, or such later date as the Minister may allow. Inspection and submission of representations

(3) Where the Minister extends the date for filing set out in subsection (1), the Minister shall notify the parties affected by the application of the extended filing date and the parties shall be permitted fifteen days from the extended filing date to submit representations as provided for in subsection (2). Effect of extension of time

26. All parties to a proceeding under this Act and all persons who have received a notice under section 27 are entitled Parties may examine material

to examine, and the Minister and the Board, as the case may be, shall make available for examination all material filed with the Minister or the Board pertaining to the proceeding.

Notice by
Minister

27.—(1) Before making any order that the Minister is empowered to make on his or her own motion, the Minister shall give a notice in the prescribed form to any persons who would be directly affected by the order, and the Minister shall not make an order sooner than sixty days after the giving of the notice.

Submission
of
documents
and
represent-
ations

(2) Any person who receives a notice under subsection (1) may, not later than thirty days from the receipt of the notice, submit documents and make representations to the Minister in respect thereof.

Referral of
application
to Board

28. The Minister may at any time in his or her discretion refer any application made to the Minister, or any matter that has been commenced on the Minister's own motion, to the Board and the Board in such case shall hear and determine the application or matter as though it were an appeal under Part VII.

Powers of
Minister

29.—(1) The Minister in respect of any application, or any matter that has been commenced on the Minister's own motion, under this Act may,

- (a) conduct any enquiry or inspection of documents or premises the Minister considers necessary;
- (b) question any person, by telephone or otherwise;
- (c) convene a meeting between the parties to the application or between any persons directly affected by the order for the purpose of discussion of issues raised by the application or matter; and
- (d) by notice in writing, direct any party to the application, or any person directly affected by the matter, to file, within such time as is set out in the notice, such information or additional information as the Minister considers necessary.

Time and
place of
meeting

(2) So far as is practicable, the Minister shall hold the meeting mentioned in clause (1) (c) at a time and place agreed to by the parties or persons directly affected.

Inspection

(3) Where, under clause (1) (d), the Minister has directed information or additional information to be filed, the Minister shall notify each of the other parties to the application or per-

sons directly affected of the direction and any other party to the application or person directly affected may inspect the information or additional information filed and may submit representations in respect thereof not later than twenty days from the date on which the information or additional information was required to be filed.

(4) Where a direction under clause (1) (d) is in respect of an application made under section 71 (whole building review), any party to the application may submit representations in respect thereof not later than forty days before the effective date of the first rent increase applied for or not later than twenty days from the date on which the information or additional information was required to be filed, whichever the last occurs.

Time for
submitting
represent-
ations

(5) Where any party to an application fails to comply with a direction of the Minister under clause (1) (d) to file any information or additional information, the Minister may,

Where
information
or additional
information
not filed

- (a) in the case of the applicant, refuse to make an order granting the application or that part of the application relating to the failure to comply with the direction; and
- (b) in the case of any other party to the application, or person directly affected by the matter, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

30. In making any determination in an application under this Act, the Minister,

Matters to be
considered
by Minister

- (a) shall consider any documents, material and oral or written representations submitted in respect of the application; and
- (b) may consider any relevant information obtained by the Minister in addition to the information referred to in clause (a), provided that the Minister first informs the parties of the additional information and gives them an opportunity to explain or refute it.

31. Where an application is made to the Minister under this Act, or where the Minister gives a notice under section 27, the Minister is not required to hold a hearing in respect of the application or the matter referred to in the notice and the

Non-
application
of
R.S.O. 1980,
c. 484

Statutory Powers Procedure Act does not apply to the Minister in the exercise of a statutory power of decision under this Act.

Order of
Minister
final

32.—(1) An order made by the Minister under this Act, subject to Part VII, is final, binding and not subject to review and shall take effect and is enforceable according to its terms from the date it is made.

Copy of
order

(2) Where the Minister makes an order under this Act, the Minister shall forthwith give a copy of the order to each of the parties to the application, or where the order is made on the Minister's own motion, to each person directly affected by the order, together with a written summary in the prescribed form of reasons for the order.

Terms and
conditions

33.—(1) The Minister or the Board may include in any order terms and conditions the Minister or the Board, as the case may be, considers proper in all the circumstances.

Clerical
errors

(2) An order made by the Minister or by the Board that contains a clerical error or omission of the Minister or the Board may be amended by the Minister or the Board, as the case may be, at any time before the hearing of any appeal of the order has been commenced.

Enforcement
of order for
the payment
of money

34.—(1) A certified copy of an order of the Minister or the Board, as the case may be, for the payment of money may be filed with the Supreme Court or with the District Court and, on being filed, the order has the same force and effect and all proceedings may be taken on it as if it were a judgment of that Court.

Variation
of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

- (a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or
- (b) if the order or decision varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1).

PART IV

RENT REVIEW HEARINGS BOARD

- 35.** A board to be known as the Rent Review Hearings Board is established. Board established
- 36.**—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint. Composition of Board
- (2) The members of the Board who are not members of the public service of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. Remuneration
- (3) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to members of the Board. Application of R.S.O. 1980, c. 419, 490
- 37.** Members of the Board, other than the vice-chairman, shall not be members of the public service of Ontario, and shall hold office during pleasure. Term of office
- 38.** Subject to subsection 100 (2), one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board in any proceedings before the Board. Quorum
- 39.**—(1) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman, and another of the members as vice-chairman. Chairman and vice-chairman
- (2) The chairman shall from time to time assign members of the Board to its various sittings and shall be the chief executive officer of the Board. Chairman chief executive officer
- (3) The vice-chairman is responsible for the general administration of the affairs of the Board and where the chairman is absent or unable to act, the vice-chairman may act as chairman. Absence, etc., of chairman
- 40.** Where a member of the Board resigns or retires, or for any other reason ceases to be a member, the member may, with the consent of the chairman, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties or responsibilities and exercise any powers that the member would have had if the member had not ceased to be a member of the Board. Completion of matters by members who resign or retire, etc

Members
full time

41. The members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties.

Staff

R.S.O. 1980,
c. 418

42. Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional
assistance

43. Subject to such conditions as the Minister may set, the Board may engage persons other than those appointed under section 42 to provide professional, technical or other assistance to the Board and may establish the duties and terms of the engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity
for acts done
in good faith

44. No action or other proceeding for compensation or damages shall be instituted against the Board, any member of the Board or any member of the Board staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Publication
of decisions

45. The Board shall, at least annually, prepare and publish a summary of significant decisions of the Board and the reasons therefor.

Board to
adopt
expeditious
procedures

46. The Board shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter.

Decision to
be on merits

47.—(1) Every decision of the Board shall be upon the real merits and justice of the case.

Board to
ascertain
substance of
transactions
and activities,
etc.

(2) In determining the real merits and justice of the case, the Board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

(a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex.

Audit

48. The accounts of the Board shall be audited annually by the Provincial Auditor.

49.—(1) The Board shall at the close of each year file with the Minister an annual report upon the affairs of the Board. Annual report

(2) The Board shall make such further reports to the Minister and provide the Minister with such information as the Minister from time to time requires. Further reports

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session. Tabling of reports

50. All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature. Moneys

51. The Board may charge and collect such fees as are prescribed for furnishing to any person, at his or her request, copies of forms, notices or documents filed with or issued by the Board. Fees

PART V

RENT REGISTRY

52.—(1) In this Part, Definitions

“actual rent” means the monthly rent actually charged for a rental unit as of the actual rent date;

“actual rent date” means,

- (a) the 1st day of July, 1985, or
- (b) where a rental unit was not rented on the 1st day of July, 1985, the first date on which that rental unit is rented after the 1st day of July, 1985.

(2) Where the rent actually charged for a rental unit as of the actual rent date was for a rental period other than a monthly period, that rent shall be converted in the prescribed manner to an equivalent monthly rent. Conversion to monthly rent

53. This Part does not apply to a residential complex, or any part of a residential complex, that is a boarding house or a lodging house unless there has been an order made under the *Residential Tenancies Act* in respect of the residential complex or any rental unit in the residential complex. Application of Part
R.S.O. 1980, c. 452

Establishment
of rent
registry by
Minister

54.—(1) The Minister shall establish and maintain a rent registry for all residential complexes that are subject to this Part.

Furnishing of
information
from rent
registry

(2) The Minister shall, on the request of any person made in the prescribed manner, furnish that person with the information recorded in the rent registry in respect of any rental unit.

Fees

(3) The Minister may charge such fees as are prescribed for furnishing information under subsection (2).

Filing of
statement
by landlord

55.—(1) Every landlord of a residential complex containing more than six rental units shall file a statement in the prescribed form with the Minister,

- (a) on or before the 1st day of October, 1986, in respect of all rental units in the residential complex that were rented on or before the day this Part comes into force; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(2) Every landlord of a residential complex containing six or fewer rental units shall file the statement mentioned in subsection (1),

- (a) on or before a date to be prescribed, in respect of all rental units in the residential complex that were rented on or before that date; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(3) Notwithstanding that a date has not been prescribed under subsection (2), a landlord of a residential complex containing six or fewer units may file the statement mentioned in subsection (1) at any time.

Contents of
statement

56.—(1) The statement mentioned in section 55 shall set out the following information:

1. The name and address of the landlord and, where the landlord is not ordinarily resident in Ontario, the name and the address of the landlord's representative or agent in Ontario.
2. The municipal addresses of all buildings which form part of the residential complex.
3. The type (by number of bedrooms) and location (by suite number or other means of identification) of each rental unit in the residential complex that is subject to rent regulation, together with the actual rent for each such rental unit and the date on which the rent was last increased, or if the actual rent is the rent that was first charged, the date the actual rent was first charged.
4. Those services and facilities, accommodations and things included in the actual rent for which a separate charge is allocated and the amount of each.
5. Whether the landlord, as of the actual rent date, was responsible for providing hydro, water, heat, cable television or parking without the allocation of a separate charge.
6. The provisions of any written tenancy agreement mentioned in subsection 2 (3) which conflict with the provisions of this Act concerning the amount of rent that may be charged for a rental unit.
7. The type and location of each rental unit in the residential complex, if any, in respect of which the information in paragraphs 3 to 6 is not required to be set out in the statement, together with the reasons therefor.
8. Such other information as is prescribed.

(2) Subject to subsection (3), the statement filed with the Minister under section 55 shall contain a certification signed by the landlord or, if the landlord is a corporation, signed by the president, secretary or other authorized senior officer thereof, certifying that the information contained in the statement, and any attachments thereto, is true, correct and complete to the best of the landlord's knowledge and belief.

Certification

(3) A landlord may authorize an agent in writing to make the certification mentioned in subsection (2), and the Minister

Certification
by agent

may require a copy of the document authorizing the agent to make the certification to be filed.

Minister to calculate amount where prior order affects rental unit
R.S.O. 1980, c. 452
1975
(2nd Sess.), c. 12

57.—(1) Where an order issued under this Act, the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)* affects the rent which may be charged for a rental unit for which the actual rent has been set out in a statement filed under section 55, the Minister shall calculate the amount obtained by adding to the rent set out in the most recent such order all permissible statutory increases from the effective date of the rent in the order to the actual rent date.

Application within 90 days

(2) Where the actual rent for a rental unit set out in the statement is the same as or lower than the amount calculated under subsection (1), or does not exceed that amount by more than the prescribed percentage, the time for making an application under section 59 in respect of that rental unit shall be ninety days from the day the landlord or the tenant receives a notice under section 58.

Application within two years

(3) Where the actual rent for a rental unit set out in the statement exceeds the amount calculated under subsection (1) by more than the prescribed percentage, or where there are no prior orders affecting the rent which may be charged for a rental unit, the time for making an application under section 59 in respect of that rental unit shall be two years from the day the landlord or the tenant receives a notice under section 58.

Notice to landlord of rents recorded under s. 46

58.—(1) As soon as is practicable, the Minister shall give to every landlord who has filed a statement under section 55 a notice in the prescribed form setting out the information recorded for all rental units for which the statement was filed and the time for making an application under section 59.

Notice to tenant of rent recorded under s. 46 for tenant's rental unit

(2) As soon as is practicable, the Minister shall give to the tenant of every rental unit in respect of which the landlord is given a notice under subsection (1) a notice in the prescribed form setting out the recorded information pertaining to the tenant's rental unit and the time for making an application under section 59.

Application to dispute information in notice

59.—(1) A landlord or a tenant who has been given a notice under section 58 may, in the time permitted by subsection 57 (2) or (3), whichever applies, make an application in the prescribed form to the Minister to correct or amend any information in the notice or to dispute the legality of the actual rent.

(2) A landlord who has been given a notice under subsection 58 (1) may in the time permitted by subsection 57 (2) or (3), whichever applies, make an application in the prescribed form to the Minister for an order declaring the actual rent recorded in the rent registry to be the lawful maximum rent as of the actual rent date.

Application
for
declaration
of lawful rent

(3) Where no application under subsection (1) or (2) is made and no notice mentioned in subsection (4) is given, the rent recorded in the rent registry for such rental unit shall be deemed to be the lawful maximum rent as of the actual rent date.

Where actual
rent recorded
is deemed
lawful rent

(4) In respect of any rental unit mentioned in subsection 57 (3), the Minister,

Minister may
investigate

- (a) shall, in the case of a rental unit whose rent is affected by a prior order; and
- (b) may, in the case of a rental unit whose rent is not affected by a prior order,

investigate the rents charged for such rental unit and may, on the Minister's own motion, make any order which could have been made had the landlord or the tenant made an application under subsection (1) or (2), provided that the notice under subsection 27 (1) is given by the Minister within the time for making an application in respect of that rental unit.

60.—(1) In any application under section 59, the landlord may justify the actual rent for any rental unit on the basis of all permissible statutory increases and,

Justification
by landlord
of actual rent

- (a) capital expenditures made on or after the 29th day of July, 1975 and before the 1st day of August, 1985, for the purpose of substantial renovations to the residential complex or to any rental unit therein;
- (b) services and facilities added on or after the 29th day of July, 1975 and before the 1st day of August, 1985, in respect of the residential complex or any rental unit therein;
- (c) financing costs incurred on or after the 29th day of July, 1975 and before the 1st day of August, 1985, in respect of the residential complex; and

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

- (d) any costs that could have been allowed under the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)*,

which were not considered in any application under the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

When
subs. (1)
does not
apply

(2) Subsection (1) does not apply to a rental unit situate in a residential complex in respect of which the statement mentioned in section 55 has not been filed within the time permitted for filing.

Order of
Minister

61. In any order made by the Minister under this Part, the Minister shall,

- (a) declare the maximum rent that may be charged for each rental unit subject to the order and the earliest date that each may take effect; and
- (b) require any necessary changes to be made to the information recorded in the rent registry.

Clerical
errors

62. Where at any time the Minister is satisfied that any information recorded in the rent registry is incorrect due to a clerical error or omission, the Minister shall amend the rent registry accordingly and shall notify the affected parties of the corrected information.

Rebate
ordered
where
statement
filed on time

63.—(1) Where a landlord has filed a statement under section 55 within the time permitted for filing, no amount shall be ordered under subsection 92 (2) in respect of any excess rent paid before the 1st day of August, 1985 in respect of any rental unit for which the actual rent has been set out in the statement.

Rebate
ordered
where
statement
not filed or
filed late

(2) Where a landlord has not filed a statement under section 55 or has filed a statement later than the time permitted for filing, no amount shall be ordered under subsection 92 (2) for any excess rent paid more than six years before the filing date of a tenant's application under that subsection.

Where
statement not
filed within
three months
of time for
filing

64. Where a landlord fails to file a statement under section 55 in respect of a residential complex on or before the expiry of the three-month period following the time specified in that section for the filing of the statement, the Minister on his or her own motion may order that the landlord shall not collect any increase in the rent charged for any rental unit in the residential complex until the landlord has filed the required statement.

65. On or after the 1st day of January, 1987, no application made by a landlord or appeal by the landlord therefrom under this Act shall be proceeded with by the Minister or the Board if the landlord has not filed a statement under section 55 in respect of the residential complex concerned, whether or not the time for filing the statement has expired.

Where no statement filed

66. The Minister shall keep current the information recorded in the rent registry by incorporating, where applicable,

Register to be kept current

- (a) an order made under this Act;
- (b) an order made under the *Residential Tenancies Act*;
- (c) a statutory increase permitted to be taken under this Act;
- (d) a statutory increase that was permitted under Part XI of the *Residential Tenancies Act*;
- (e) a notice given under section 89; and
- (f) any other relevant change in the information recorded in the rent registry.

R.S.O. 1980, c. 452

PART VI

RENT REGULATION

67. The rent charged for a rental unit shall not be increased unless a period of at least twelve months has elapsed since the date of the last rent increase.

Twelve-month period between rent increases

68.—(1) Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit.

Maximum increase without application

- (a) to take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987, by more than 4 per cent; and
- (b) to take effect on or after the 1st day of January, 1987, and to take effect on or after the 1st day of January in any subsequent year, by more than the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A hereto.

of the last rent that was charged for the rental unit for an equivalent rental period.

Calculation and publication of Index by Minister

(2) The Minister shall calculate the Residential Complex Cost Index that is applicable for each year and shall publish the Index in *The Ontario Gazette* not later than the 31st day of August of the immediately preceding year.

Application

(3) A landlord may increase the rent charged for a rental unit by more than the amount permitted by clause (1) (a) or (b) without making an application under this Act, provided that the amount of the rent after the increase is applied is not higher than the maximum rent as of the date the rent increase takes effect.

Landlord may apply although notice of rent increase not yet given

69. A landlord may make an application under this Part despite the fact that the landlord may not have, in respect of any rental unit, given notice under section 5 (notice of rent increase), but nothing in this section relieves the landlord from compliance with section 5.

Application

R.S.O. 1980, c. 452

70.—(1) This section applies only to rental units that, before the repeal of clauses 134 (1) (c) and (d) of the *Residential Tenancies Act* by section 122 of this Act, were exempt from Part XI of that Act.

Notice for rent increase of more than 4 per cent

(2) Where a notice of rent increase to increase the rent charged for a rental unit by more than 4 per cent of the last rent that was charged for an equivalent rental period has been given before this section comes into force, to take effect on or after the 1st day of August, 1985, where the landlord makes an application permitted under clause (3) (b), the rent increase specified in the notice may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

Landlord to repay excess rent or bring application under s. 71

(3) A landlord who has increased the rent charged for a rental unit by more than 4 per cent effective on or after the 1st day of August, 1985, pursuant to a notice of rent increase given before this section comes into force, shall, on or before the sixtieth day after the coming into force of this section,

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of a 4 per cent increase; or
- (b) apply to the Minister under section 71 (whole building review) even though the time for making such an application set out in subsection 71 (3) has expired.

(4) Where a landlord fails to comply with clause (3) (a) or (b), the tenant may,

Where landlord fails to comply with cl. (3) (a) or (b)

- (a) deduct the amount of the rent paid by the tenant that is in excess of a 4 per cent increase from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Minister under subsection 92 (2).

71.—(1) Where a landlord desires to increase the rent that may be charged for a rental unit by more than the amount permitted by section 68, the landlord may apply to the Minister in the prescribed form for an order permitting the landlord to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

Application by landlord

(2) When the landlord applies to the Minister under subsection (1), the landlord shall, as part of the same application, apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

Whole building review

(3) An application made under this section shall be made not later than ninety days before the effective date of the first intended rent increase.

Time for making application

(4) At the time the application is filed, the landlord shall file with the Minister a cost revenue statement in the prescribed form together with all documents that the landlord relies upon in support of the application and such other material as may be prescribed.

Filing of cost revenue statement

(5) Any party to the application may submit material and make representations in respect of the application not later than forty days before the effective date of the first rent increase applied for.

Inspection

(6) Where the Minister extends the date for filing under subsections (3) and (4) or the date for submitting material and making representations under subsection (5), the Minister shall notify each of the parties affected by the application of the extended date and any party shall be permitted up to forty days before the effective date of the first rent increase applied for or twenty days from the extended date, whichever is the

Extension of time

later, to submit material and make representations in respect of the application.

Determina-
tion
by Minister
of total
rent increase

72. Where an application is made by a landlord to the Minister under section 71, the Minister shall determine the total rent increase for the residential complex that is justified by,

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning financing costs, capital expenditures and extraordinary operating costs that the landlord has experienced or will experience in respect of the residential complex;
- (c) the degree to which actual financing costs or capital expenditures vary from the projected amounts allowed in respect of such costs or expenditures in a previous order made under this Act or the *Residential Tenancies Act*;
- (d) the prescribed allowances for management and administration in respect of capital expenditures;
- (e) the findings of the Minister concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;
- (f) the findings of the Minister concerning a change in the services and facilities provided or in the standard of maintenance and repair in respect of the residential complex or any rental unit located therein;
- (g) in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the rate of return that is applicable to the residential complex in order to eliminate an economic loss;
- (h) the findings of the Minister concerning financing costs no longer borne by the landlord and which were allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*, where the rate increase in financing costs that justified the rent increase awarded in the previ-

R.S.O. 1980,
c. 452

R.S.O. 1980,
c. 452

ous order took effect on or after the 1st day of August, 1985;

- (i) in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, the extent to which the rent for the residential complex is a chronically depressed rent within the meaning of section 88; and
- (j) the findings of the Minister concerning matters prescribed.

73. Where the only grounds set out in a landlord's application under section 71 are the financing costs that the landlord has experienced or will experience in respect of the residential complex, the Minister shall apply the percentage determined under clause 68 (1) (a) or (b), whichever is applicable, instead of the prescribed operating cost allowances.

Where
financing
costs sole
grounds for
application

74.—(1) Where a landlord claims to have experienced a financial loss or an economic loss or where the landlord may be entitled to an allowance for relief of hardship, the landlord shall submit proof of the actual operating costs that the landlord has experienced in respect of the residential complex.

Proof of
operating
costs

(2) Notwithstanding subsection (1), where, for the purposes of a prior order made under subsection 80 (1) or under subsection 131 (5) of the *Residential Tenancies Act*, the operating costs experienced in respect of the residential complex have been determined, and where the effective date of the first rent increase set out in that order is not more than three years prior to the effective date of the first rent increase applied for by the landlord in the current application, the landlord may elect not to submit proof of the operating costs that the landlord has experienced in respect of the residential complex.

Election by
landlord

R.S.O. 1980,
c. 452

(3) Where the landlord makes an election under subsection (2), the operating costs shall be determined by reference to the amounts determined for the purposes of the prior order referred to in subsection (2), increased in the prescribed manner.

Determi-
nation
of operating
costs where
election
made

75.—(1) In making findings concerning capital expenditures under clause 72 (b) or under clause 84 (1) (b), the Minister shall,

Allowance
of interest

- (a) allow interest on the expenditure, whether financed by borrowing or out of the landlord's own funds, or by a combination thereof, at the prescribed rates; and

- (b) consider the landlord's own labour, if any, in carrying out the work involved in the capital expenditure.

80 per cent
reduction
for capital
expenditures
previously
allowed
R.S.O. 1980,
c. 452

(2) Where, in an application under section 71 or 83, the landlord claims a capital expenditure for the replacement of an item allowed as a capital expenditure in a previous order made under this Act or the *Residential Tenancies Act*, and where the capital expenditure allowed in the previous order was completed on or after the 1st day of August, 1985, the Minister shall reduce the total rent increase that would otherwise be justified in the application by 80 per cent of the amount allowed in respect of the capital expenditure in the previous order.

Limitation on
consideration
of financing
costs

76.—(1) In making findings concerning financing costs under clause 72 (b), the Minister shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord.

Relief of
hardship

(2) When the total rent increase for the residential complex has been determined under section 72, the Minister shall, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord additional revenue of not more than 2 per cent of the gross potential rent.

Limit on rent
increase
attributable
to
increased
financing
costs
resulting
from
purchase of
residential
complex

(3) Where a landlord claims a financial loss arising out of an increase in the financing costs of the residential complex resulting from a purchase or purchases of the residential complex, the Minister, when determining the total rent increase for the residential complex, shall allow in the initial year (as the component of the total increase in rent determined by the Minister that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex and in subsequent years the amount allowed in respect thereof by the Minister in any such year shall not exceed 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Definition

(4) For the purposes of subsections (1), (3) and (6), "purchase" means the acquisition of a residential complex, after the 31st day of December, 1979, by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in any agreement to purchase a residential complex.

(5) Where the Minister allows a financial loss arising out of the circumstances set out in subsections (1) and (3), the Minister shall not allow the percentage set out in subsection (2) except in the last year during which the financial loss is phased in, but then only where the total of the percentage attributable to the financial loss and the percentage set out in subsection (2) does not exceed 5 per cent.

Limitation
on relief of
hardship
allowance

(6) Subsections (3) and (5) do not apply to the purchase of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, where,

Where
subss. (3, 5)
do not apply

- (a) the purchase was from the original owner of the residential complex and the residential complex was constructed for the purpose of such a purchase; or
- (b) the building permit to construct the residential complex was issued on or before the 18th day of April, 1986, and the agreement to purchase was entered into on or before the 18th day of April, 1986.

(7) In making findings concerning financial loss under clause 72 (e), the Minister shall allow interest paid after the 1st day of August, 1985, on loans in respect of any financial loss incurred since the acquisition of the residential complex by the landlord, at the prescribed rates on the amount of the loan up to 85 per cent of the acquisition costs.

Interest

77.—(1) The rate of return in respect of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, and the building permit for the construction of which is issued,

Rate of
return

- (a) on or before the 1st day of January, 1987, is 10 per cent; or
- (b) after the 1st day of January, 1987, is the three-year moving average, as of the year in which the building permit is issued, of the 10 year Canada Bond rate plus 1 percentage point,

of the landlord's initial invested equity, including the principal portion of any debt not otherwise allowed, and capitalized losses.

(2) Where a landlord claims an economic loss in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the Minister shall allow in the initial and any subsequent year, as the amount attributable towards the elimination of economic loss,

Phase in
of economic
loss

- (a) in respect of a residential complex, the permit for the construction of which was issued on or before the 1st day of July, 1986, the greatest of,
 - (i) the amount required to eliminate the economic loss over a period of five years,
 - (ii) 5 per cent of the gross potential rent for the preceding year, and
 - (iii) the amount required to eliminate the financial loss experienced in the preceding year; and
- (b) in respect of a residential complex, the permit for which was issued after the 1st day of July, 1986, the lesser of,
 - (i) the total of the amount required to eliminate the economic loss, and
 - (ii) the portion of that amount that will result in a maximum rent increase that does not exceed the highest of,
 - (A) the amount required to eliminate the financial loss experienced in the preceding year,
 - (B) 10 per cent of the gross potential rent for the preceding year, and
 - (C) an amount that is three times the increase permitted under subsection 68 (1).

Extent of
consideration
of financing
cost no
longer
borne

78. In making findings under clause 72 (h), the Minister shall consider a financing cost which is no longer borne only to the extent of the amount that was previously allowed in respect of that financing cost.

Apportion-
ment of
total rent
increase

79.—(1) In apportioning the total rent increase amongst the rental units in the residential complex, the Minister may take into account the following matters:

1. The rent schedule proposed by the landlord's application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.

3. The degree to which any capital expenditures the landlord has experienced or will experience in respect of the residential complex affect individual rental units in the residential complex.
4. Any other prescribed matter.

(2) In apportioning the total rent increase under subsection (1), the Minister may set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complex but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that rental unit in the twelve-month period immediately preceding the date of the rent increase.

Equalization
of rents

80.—(1) Where the Minister has determined and apportioned the total rent increase under this section,

Order re
maximum
rent
chargeable
for each unit

- (a) the Minister shall order the maximum rent that may be charged for each rental unit in the residential complex that is under review and the earliest date that each may take effect; and
- (b) the Minister may order that the landlord or tenant pay to the other any sum of money that is owed to the other by reason of the order of the Minister setting the maximum rent for a rental unit.

(2) Where a landlord has applied for a rent increase greater than the amount permitted by section 68, the Minister may, if his or her findings so justify, allow a rent increase of less than the amount permitted by section 68.

Minister may
order
increase
less than
statutory
increase

(3) In any application under section 71, where the Minister finds that the rent being charged for any rental unit exceeds the maximum rent for that rental unit, the Minister shall apply any rent increase that is otherwise justified, not to the rent currently being charged for the rental unit, but to the maximum rent for that rental unit.

Where rent
charged
exceeds
maximum
rent

(4) Subject to subsection (5), the Minister shall make an order in respect of any application under this section not later than fifteen days before the effective date of the first rent increase applied for in the application.

Time for
making order

(5) Where it is not possible in the circumstances for the Minister to make an order in respect of any application within the time set out in subsection (4), the Minister shall notify in

Extension
of time
for making
order

writing the parties to the application of the reason why it is not possible and of the date on or before which the order will be made.

Application
by landlord
for
equalization
of rents

81.—(1) Without bringing an application under section 71, a landlord may make an application in the prescribed form to the Minister for an order apportioning the total rent charged in respect of a residential complex amongst the rental units situate therein, for the purpose of varying the rents so as to achieve equalization of rents charged for similar rental units within the residential complex.

Time for
making
application

(2) An application under subsection (1) shall be made at least ninety days before the effective date of the first intended variation in rent as set out in the application.

Apportioning
of rents
charged
to achieve
equalization

(3) Where the Minister is satisfied in an application made under this section that the rents ought to be equalized, the Minister shall set the rent that may be charged for any rental unit so that the landlord may achieve equalization of the rents charged for similar rental units within the residential complex, but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that rental unit in the twelve-month period immediately preceding the date or dates of the rent increase.

Order re
variation in
rents to
achieve
equalization

(4) Where the Minister has determined and apportioned the rent charged amongst the rental units in the residential complex, the Minister shall order the percentage, if any, by which the rent charged for a rental unit may be varied from the amount that would otherwise be the maximum rent for that rental unit and the date or dates on which such variation may take effect.

Application
for
adjustment
to financial
or economic
loss allowed
for

82.—(1) Within two years of the effective date of the first rent increase set out in an order made under subsection 80 (1), a landlord or a tenant may apply in the prescribed form to the Minister for an adjustment to the financial loss or economic loss allowed in the order or to the extraordinary operating costs allowed in the order in respect of maintenance, on the basis that the operating costs used in the calculation of the financial loss, economic loss or extraordinary operating costs were substantially higher or lower than the operating costs actually experienced in respect of the residential complex in a subsequent year.

Order re
maximum
rent
chargeable
for
each unit

(2) In an order made by the Minister on an application under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit in the residential

complex that is under review and the earliest date that each may take effect, provided that the earliest such date is not earlier than the day the application was made.

83.—(1) Where a landlord desires to increase the rent that may be charged for one or more rental units in a residential complex by more than the amount permitted by section 68 because of capital expenditures the landlord has experienced or will experience in respect of such rental units, the landlord and the tenants of such rental units may jointly apply in the prescribed form to the Minister at least sixty days before the effective date of the first intended rent increase for an order permitting the landlord to do so.

Part
building
review

(2) Where the residential complex contains more than twelve rental units an application under subsection (1) shall not include the tenants of more than 25 per cent of the rental units in the residential complex.

Application
limited to
25 per cent
of rental
units

(3) The landlord and the tenants shall file with the Minister a capital cost revenue statement in the prescribed form together with all documents that the parties rely upon in support of the application, including any written submissions, and such other materials as may be prescribed not later than forty-five days before the effective date of the first rent increase applied for.

Filing of
capital cost
revenue
statement

84.—(1) Where an application is made by a landlord and one or more tenants under section 83, the Minister shall determine the rent increase for each rental unit which is subject to the application that is justified by,

Determi-
nation
by Minister
of rent
increase for
each unit

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning capital expenditures that the landlord has experienced or will experience that affect each rental unit;
- (c) the prescribed allowances for management and administration in respect of capital expenditures; and
- (d) the findings of the Minister concerning matters prescribed.

Order re
maximum
rent
chargeable
for each
unit

(2) Where the Minister has determined the rent increase for each rental unit under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit under review and the earliest date that each may take effect.

Application
for
conditional
determination
respecting
rate of return

85.—(1) At any time before the first rental unit in a residential complex is rented, a landlord may make an application in the prescribed form to the Minister for an order determining the treatment any proposed course of action that may affect the rate of return for the residential complex will receive on a subsequent application under section 71, and the Minister shall, by order, make any determination the Minister considers appropriate.

Subsequent
application
required

(2) An order under subsection (1) is conditional on the landlord making a subsequent application in the prescribed form to the Minister to review the order in the light of the actual course of action taken by the landlord in relation to the matters determined.

Time for
making
subsequent
application

(3) An application under subsection (2) shall be made not later than 120 days after the day the first rental unit is rented.

Variance or
confirmation
of conditional
determination

(4) In an order made on an application under subsection (2), the Minister may vary or confirm the order made under subsection (1).

Effect of
conditional
determination

(5) A determination in an order made under subsection (1) has no force or effect except as varied or confirmed by an order made on an application under subsection (2).

Application
for
conditional
order

86.—(1) Prior to making a capital expenditure in respect of a residential complex or any rental unit therein, the landlord may, or the landlord and the tenants of the rental units concerned jointly may, apply in the prescribed form to the Minister for a conditional order under subsection (2).

Order by
Minister

(2) In an application under subsection (1), the Minister shall consider the proposed capital expenditure and shall by order declare the amount that will be allowed in respect of the expenditure in a subsequent application made under subsection 71 (1) (whole building review) or subsection 83 (1) (part building review), and where on the subsequent application the actual expenditure is substantially higher or lower than the projected expenditure the amounts allowed shall be decreased or increased proportionately.

Where
greater
rent increase
awarded than
applied for

87. An order of the Minister on an application made under this Part may award a rent increase greater than that

requested in the application and where the order does so, the maximum rent for each rental unit affected by the order will be established in accordance with the terms of the order, but the rent charged for any such rental unit during the twelve-month period following the effective date of the rent increase set out in the order shall not exceed the amount that would have been established for that rental unit had the rent increase requested in the application been awarded.

88.—(1) In this section, “chronically depressed rent” Definition means the gross potential rent for a residential complex where,

- (a) the rent is more than 20 per cent below the gross potential rent for residential complexes that are comparable to the residential complex, in terms of number and type of rental units, quality and location; and
- (b) the rate of return on the landlord's equity in respect of the residential complex is less than 10 per cent.

(2) In an application made under section 71 in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, where the landlord has owned the residential complex throughout the period from the 1st day of November, 1982, to the day the application is made, and the Minister finds the gross potential rent is a chronically depressed rent, the Minister shall allow, in an order made under subsection 80 (1), an additional 2 per cent per year of the gross potential rent until the rent is no longer a chronically depressed rent. Allowance to chronically depressed rent

(3) Where a rental unit in a residential complex whose gross potential rent is found to be a chronically depressed rent under subsection (2) becomes occupied by a new tenant or where an existing tenant of the rental unit agrees in writing thereto, the landlord, with the approval of the Minister and without making an application under section 71 but subject to section 67, may increase the rent charged for that rental unit to the amount the rent would be for that rental unit at the time the gross potential rent for the residential complex has reached the level at which it is no longer a chronically depressed rent. Where new tenant or existing tenant consents

(4) Where on the application of a tenant or on the Minister's own motion the Minister finds a significant deterioration in the standard of maintenance and repair in respect of the rental unit or the residential complex in which it is situate has occurred after the date of the order mentioned in subsection Deterioration in standard of maintenance and repair

(2), the Minister may order the allowance or any part thereof for an additional 2 per cent or the increase in rent charged for a rental unit to which subsection (3) applies, be no longer collected by the landlord.

Phasing in of certain amounts that are components of total rent increase

89.—(1) An order made under this Part may provide for the phasing in over more than one year, in the prescribed manner, of any amount that is included (as a component of the total permitted rent increase) for the purpose of,

- (a) eliminating a financial loss or an economic loss the landlord has experienced or will experience;
- (b) achieving equalization of rents charged for rental units within a residential complex; or
- (c) raising the gross potential rent for a residential complex to the level where the rent is no longer a chronically depressed rent within the meaning of section 88,

and where provision is made for such phasing in, the Minister shall specify in the order the phased in amount for the initial year and the method of calculating the amount for any subsequent year or years in which the phased in amount is applicable.

Notice by Minister to landlord and entry in rent registry

(2) The Minister shall calculate the phased in amount that is applicable in any year subsequent to the initial year and, not later than 120 days before the anniversary of the date of the first rent increase set out in the order, shall give notice in writing of the amount to the landlord who is affected and shall enter the phased in amount that is applicable for the year in the information recorded in the rent registry in respect of any rental unit that is affected thereby.

Notice to tenant

(3) The landlord shall include with a notice of rent increase given under section 5 any notice the landlord has received under subsection (2) that affects the amount of the rent increase set out in the notice given under section 5.

Increasing rent by phased in amount

(4) In addition to the amount by which, under section 68, the landlord could increase the rent charged, the landlord may, without making an application under this Act, increase the rent for a rental unit by the phased in amount set out in the notice given under subsection (2) respecting that rental unit.

Decrease in financing costs
R.S.O. 1980,
c. 452

90.—(1) Where a landlord has been awarded a rent increase under this Act or the *Residential Tenancies Act* that

was justified, in whole or in part, by a rate increase in financing costs that took effect on or after the 1st day of August, 1985, if at the time the term of the mortgage or other instrument associated with the financing costs expires or is about to expire the Minister is of the opinion that the rate of interest required to be paid on a renewal or replacement of the mortgage or other instrument is lower by 2 per cent or more than the interest rate that justified the rent increase that was awarded, the Minister shall give notice thereof in writing to the landlord and the tenants of the residential complex that is affected.

(2) Not later than thirty days after the receipt of a notice under subsection (1), the landlord shall file with the Minister all documents that are relevant to the financing costs that the landlord will experience following the expiry of the term of the mortgage or other instrument.

Landlord to
file
documents
with Minister

(3) Unless the landlord makes an application under section 71 within the time set out therein, the Minister may, on the Minister's own motion, order the maximum rent that may be charged for each rental unit in the residential complex and the earliest date that each may take effect.

Order of the
Minister

(4) In making an order under subsection (3) the Minister shall take into account only the matters in respect of which the Minister may make findings under clause 72 (h).

Matters to
be considered
by the
Minister

91.—(1) A tenant who desires to dispute an intended rent increase for his or her rental unit that does not exceed the amount that the landlord is permitted to charge under section 68 may make an application to the Minister for an order requiring the landlord to reduce the amount of the rent increase.

Application
by tenant
disputing
intended
rent increase

(2) No rent increase shall be reduced under this section when the rent increase results in a rent not exceeding the maximum permitted by an order by the Minister or the Board or by the Residential Tenancy Commission under the *Residential Tenancies Act*, for the applicable rental unit.

Exception

R.S.O. 1980,
c. 452

(3) An application under this section shall be made not later than sixty days before the effective date of the intended rent increase.

Time for
application

(4) Where an application is made by a tenant under this section, in determining a rent increase for the rental unit, the Minister shall consider only the following matters:

Consider-
ations
where tenant
applies

1. Variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex.
2. A change shown to have occurred in the standard of maintenance and repair or in the services and facilities provided that affects the rental unit.
3. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board.

Order setting
maximum
rent
chargeable
for the unit

(5) Where the Minister has made a determination on the application,

- (a) the Minister shall make an order setting the maximum rent that may be charged for the rental unit under review and the earliest date that the maximum rent may take effect; and
- (b) the Minister may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Minister setting the maximum rent for the rental unit.

Application
by landlord
for
equalization
of rents

(6) Where a tenant makes an application under subsection (1) on the grounds set out in paragraph 1 of subsection (4), the landlord may, not later than thirty days from the day the tenant's application was filed, make an application to the Minister under subsection 81 (1).

First date
of intended
variation

(7) Notwithstanding subsection 81 (2), the first date of intended variation in rent in a landlord application under subsection 81 (1) as provided in subsection (6) shall be the effective date of the rent increase disputed by the tenant in the application under subsection (1).

Tenant not
liable to pay
illegal rent
increase

92.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Act.

Remedy

(2) Where, on the application of a tenant, the Minister determines that the landlord has charged an amount of rent that is in excess of that permitted by this Act or Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, the Minister,

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

- (a) shall by order declare the maximum rent that may be charged for the rental unit concerned and the earliest date the maximum rent may take effect; and

- (b) where any excess rent paid by the tenant to the landlord is owed by the landlord to the tenant, shall, subject to subsection 13 (4), order the landlord to pay the excess rent owing to the tenant.

(3) Notwithstanding subsection (2), the Minister shall not make an order for the payment of excess rent charged for a rental unit prior to the 1st day of August, 1985, where the sum of the excess rent and the lawful rent for the rental unit does not exceed the rent that could have been charged for the rental unit in the period when the excess rent was paid, if, to the amount charged for the rental unit on the 29th day of July, 1975, or at the earliest time thereafter for which the rent charged is known, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and the *Residential Tenancies Act*.

Where excess rent not to be repaid

1975
(2nd Sess.),
c. 12
R.S.O. 1980,
c. 452

93. Where a landlord makes an application under section 71, 83 or 86, the Minister may refuse to recognize all or part of the capital expenditures or proposed capital expenditures claimed by the landlord where in the opinion of the Minister such expenditures became necessary as a result of the landlord's ongoing deliberate neglect in maintaining the residential complex or any rental unit therein.

Consequences of neglect in maintaining residential complex or rental unit

94.—(1) In this section,

Definitions

"basic unit rent" means the amount of rent charged for a rental unit exclusive of any separate charges;

"separate charges" means the amounts of rent charged separately for any service, facility, privilege, accommodation or thing that the landlord provides for the tenant in respect of the tenant's occupancy of the rental unit.

(2) In any order under this Act in which the Minister sets out or declares the maximum rent that may be charged for a rental unit, the Minister may separately set out or declare the maximum basic unit rent and the maximum separate charges.

Minister may set out or declare basic unit rent and separate charges

(3) Notwithstanding subsection 79 (2) or 81 (3), an order of the Minister made under subsection 80 (1) or 81 (4) may provide for the immediate equalization of separate charges for parking places or other separate charges as may be prescribed.

Immediate equalization of separate charges

(4) Notwithstanding anything in this Act, where a landlord and tenant agree that the landlord will provide any additional, or discontinue the provision of any, parking spaces, or any other service, facility, privilege, accommodation or thing as

Adding or discontinuing services, facilities, etc

may be prescribed, in respect of the tenant's occupancy of a rental unit, the maximum rent which may be charged for the rental unit shall be increased or decreased in the prescribed manner.

Coerced
agreement
not
enforceable

(5) Where the Minister by order under subsection 13 (3) determines that a tenant has entered into an agreement referred to in subsection (4) as a result of some form of coercion exercised by the landlord, the agreement is not enforceable against the tenant.

Where vacant
unit becomes
rented

95. Where a rental unit that was previously rented has not been rented for any period of time and then becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during that period and the landlord had given notice or notices of rent increase in the amount permitted by this Act.

Where rental
unit rented
for first time

96. Where a rental unit is rented for the first time, the rent charged by the landlord shall be deemed to be the maximum rent for that unit except as otherwise provided in this Act or the regulations thereunder.

Additional
charges
prohibited

97.—(1) No landlord, or any person acting on behalf of the landlord shall, directly or indirectly, in respect of any rental unit,

- (a) collect or attempt to collect from a tenant or prospective tenant of the rental unit a premium, commission, bonus, penalty or key deposit;
- (b) require or attempt to require a prospective tenant to pay any consideration for goods or services as a condition for granting the tenancy, in addition to the rent the tenant is lawfully required to pay to the landlord; or
- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord lawfully may charge for the rental unit.

Idem

(2) No tenant shall,

- (a) sublet a rental unit for a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;

- (b) sublet any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (c) charge any consideration, fee, premium, commission, bonus, penalty or key deposit for subletting the rental unit or any portion thereof or for assigning a tenancy agreement for the rental unit; or
- (d) require or attempt to require a prospective subtenant or assignee to pay any consideration for goods or services as a condition for the sublet or assignment in addition to the rent the subtenant or assignee is lawfully required to pay to the tenant or landlord.

PART VII

APPEALS

98.—(1) A landlord or a tenant directly affected by an order may, within thirty days of the giving of the order of the Minister, appeal any order of the Minister disposing of an application made under this Act, or an order made on the Minister's own motion, by filing a notice or notices of appeal in the prescribed form with the Board, together with any documents that the party appealing relies upon in support of the appeal and which were not filed with the Minister on the application.

Appeal from
order of
Minister

(2) The landlord and any tenant of a rental unit affected by an order made under section 84 or an order made pursuant to a joint application under section 86 may appeal the order jointly or individually.

Appeal of
part building
review order

(3) Where a notice of appeal is filed with the Board under subsection (1), a copy of the notice shall be given by the Board to the Minister who shall thereupon forward to the Board,

Record

- (a) the original or a true copy of the application;
- (b) the original or a true copy of all documents and material filed in respect of the application; and
- (c) a certified copy of the order appealed from together with the summary of reasons for the order.

Filing of documents, etc., by respondent

(4) Where any person has filed a notice of appeal, the other parties to the appeal shall, within thirty days of the filing of the notice of appeal, file with the Board the documents that the parties intend to rely upon at the hearing of the appeal and which were not filed with the Minister on the application.

Notice to parties

(5) After receiving a notice of appeal under subsection (1), the Board shall give a notice to the parties stating the date, place and time when the appeal will be heard.

Issues may be heard together

(6) Where several different appeals have been made to the Board, and the Board is of the opinion that it would be appropriate to determine the issues raised by the appeals together, the Board may hear and determine the issues in dispute at a common hearing.

Issues may be heard separately

(7) Where the Board is of the opinion that it would be appropriate to deal with some of the issues raised by an appeal at separate hearings, the Board may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues.

Issues on appeal limited

99.—(1) On the hearing of an appeal, the issues will be limited to those raised in the initial application, unless the Board, in accordance with the prescribed procedural and interpretative rules and policies, otherwise allows.

Agreement to further limited issues

(2) Where all the parties to an appeal agree in writing, the Board may further limit the issues of the appeal to those issues agreed upon by the parties.

Evidence

(3) On the hearing of the appeal, the Board shall hear any evidence that is relevant to the issues, whether or not the evidence was tendered or was available on the initial application.

Burden of proof

(4) On the hearing of the appeal, the burden of proof lies on the party who made the initial application, or in the case of an appeal from an order made on the Minister's own motion, on the party bringing the appeal.

Hearing by single member

100.—(1) Subject to subsection (2), an appeal shall be heard by a single member of the Board.

Hearing by panel of three Board members

(2) The chairman shall assign a panel of three members of the Board to hear an appeal where any party to the appeal files a request in the prescribed form with the Board not later than thirty days after the day the notice of appeal is filed.

Pre-hearing conference

101.—(1) Where any party to an appeal files a request therefor in the prescribed form with the Board or where the

Board on its own initiative decides to do so, the Board may direct the parties to attend a pre-hearing conference, to be conducted by a single member of the Board, to discuss,

- (a) the issues to be dealt with on the hearing of the appeal;
- (b) whether any person ought to be added or removed as a party to the appeal;
- (c) the rental units affected by the appeal;
- (d) where a request has been filed under subsection 100 (2), whether the appeal should be heard by one member or a panel of three members of the Board; and
- (e) any procedural matter that arises or may arise in connection with the appeal.

(2) The member of the Board who conducts the conference may make such recommendations as he or she considers necessary or advisable arising out of the matters discussed at the conference.

Recommendations

(3) The member of the Board who conducts the pre-hearing conference shall not hear the appeal or be a member of the panel that hears the appeal.

Board member not to hear appeal

(4) Notwithstanding subsection 102 (1), the *Statutory Powers Procedure Act* does not apply to a pre-hearing conference held under this section.

R.S.O. 1980, c. 484 not to apply

102.—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Board in the exercise of a statutory power of decision.

Application of R.S.O. 1980, c. 484

(2) The giving to a party of a copy of a notice of appeal to the Board shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*.

Deemed compliance R.S.O. 1980, c. 484

103. Subject to the provisions of the *Statutory Powers Procedure Act*, and except as otherwise provided for by this Act, the Board may determine its own procedure for the conduct of hearings.

Procedure

104.—(1) In addition to any material, evidence or information submitted to the Board on an appeal, in hearing any appeal, the Board may consider,

Matters Board to consider

- (a) any matter the Minister was entitled to consider on the application;
- (b) any material and documents submitted to the Minister on the application; and
- (c) such other matters as it deems necessary or advisable for the purpose of dealing with the appeal.

Board may investigate, etc.

(2) The Board, in respect of any appeal, may,

- (a) conduct any enquiry or inspection of documents or premises that the Board considers necessary; and
- (b) question any person by telephone or otherwise.

Additional material

105.—(1) The Board may direct any party to the appeal to file such additional material as the Board considers necessary and the other parties shall have an opportunity to examine the additional material and to explain or refute it.

Where additional material not filed

(2) Where any party to the appeal fails to comply with a direction of the Board under subsection (1), the Board may,

- (a) in the case of the appellant, refuse to make an order allowing the appeal or that part of the appeal relating to the failure to comply with the direction; and
- (b) in the case of any other party to the appeal, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

Board may question parties, etc.

106. At the hearing, the Board may question the parties who are in attendance and any witnesses with a view to determining the truth concerning the matters in dispute.

Other relevant information

107. In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Order of Board

108. Upon completion of a hearing, the Board shall by order,

- (a) affirm the order of the Minister;
- (b) vary the order of the Minister; or

- (c) substitute its own order for the order of the Minister,

and shall forthwith give a copy of the order to the parties to the appeal, together with reasons in writing for the order.

109. Where, within one year of the date of an order of the Board, the Board is of the opinion that there has been a serious error, the Board may, on its own motion, rehear any appeal and may affirm, rescind, amend or replace the order.

Power to rehear

110. An order of a Board member or an order of the majority of the members of a panel of Board members shall be deemed to be an order of the Board.

Order of member or majority of panel deemed order of Board

111. Where a member of a panel of Board members that is assigned to hear an appeal ceases for any reason to be a member of the Board before the Board has made an order in respect of the appeal, the remaining two members of the panel may complete the hearing and make the order of the Board, but if the two members do not agree on the order to be made, the appeal shall be reheard before a new panel of Board members.

Decision by remaining members of panel of Board members

112.—(1) Any party to an appeal under section 98 may, on a question of law, appeal an order of the Board to the Divisional Court.

Appeal to Divisional Court

(2) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal under this section.

Board entitled to be heard on appeal

(3) Where an appeal is brought under subsection (1), the Divisional Court shall hear and determine the appeal and may,

Power of Divisional Court on appeal

- (a) affirm, rescind, amend or replace the decision or order; or
- (b) remit the matter to the Board with the opinion of the Divisional Court,

and may make,

- (c) any other order in relation to the matter that it considers proper; and

- (d) any order, with respect to costs, that it considers proper.

Orders not
stayed
pending
appeal

113. An appeal from an order of the Minister or the Board does not stay the order pending the hearing of the appeal.

PART VIII

MISCELLANEOUS

Regulations

114. The Lieutenant Governor in Council may make regulations,

1. prescribing forms of applications to the Minister and material to be furnished in respect of the application;
2. prescribing the form of a notice of appeal to the Board;
3. prescribing procedural and interpretative rules and policies to be observed in the interpretation and administration of this Act;
4. prescribing, for the purposes of clause 4 (2) (a), rental units to which this Act applies;
5. prescribing, for the purposes of section 5, the form of the notice of a rent increase;
6. prescribing, for the purposes of clause 13 (3) (d), matters of concern in respect of which the Minister may make a determination;
7. prescribing, for the purposes of section 15, the manner in which maintenance standards shall be enforced by a municipality;
8. prescribing, for the purposes of subsection 20 (5), rules for the computation of time;
9. prescribing, the form of the notice mentioned in subsection 27 (1);
10. prescribing, for the purposes of subsection 32 (2), the form of a summary of reasons for an order of the Minister;

11. prescribing, for the purposes of section 51, fees for the furnishing of copies of forms, notices or documents;
12. prescribing, for the purposes of subsection 52 (2), the manner of converting to an equivalent monthly rent;
13. prescribing, for the purposes of subsection 54 (2), the form of a request for information from the rent registry;
14. prescribing, for the purposes of subsection 54 (3), fees for the furnishing of information from the rent registry;
15. prescribing, for the purposes of subsection 55 (1), the form of the statement to be filed in connection with the rent registry;
16. prescribing, for the purposes of clause 55 (2) (a), the date for filing a statement under subsection 55 (1);
17. prescribing, for the purposes of subsection 56 (1), other information to be set out in the statement filed under subsection 55 (1);
18. prescribing the percentage mentioned in subsections 57 (2) and (3);
19. prescribing, for the purposes of section 58, the form of notice to be given by the Minister in respect of information recorded in the rent registry;
20. prescribing, for the purposes of subsection 71 (4), the form of a cost revenue statement;
21. prescribing, for the purposes of clause 72 (a) and 84 (1) (a), the operating cost allowance;
22. prescribing, for the purposes of clause 72 (d) and clause 84 (1) (c), the allowances for management and administration in respect of capital expenditures;
23. prescribing, for the purposes of clause 72 (j), matters in respect of which the Minister may make findings;

24. prescribing, for the purposes of clause 75 (1) (a), interest rates on capital expenditures;
25. prescribing, for the purposes of subsection 76 (7), interest rates to be allowed;
26. prescribing, for the purposes of paragraph 4 of subsection 79 (1), matters to be taken into account by the Minister;
27. prescribing, for the purposes of subsection 83 (3), the form of a capital cost revenue statement;
28. prescribing, for the purposes of section 89, the manner of phasing in amounts;
29. prescribing, for the purposes of subsection 94 (3), separate charges which may be equalized immediately;
30. prescribing, for the purposes of subsection 94 (4), the manner in which the rent may be increased or decreased;
31. prescribing, for the purposes of section 96, the maximum rent for a rental unit that is rented for the first time;
32. prescribing, for the purposes of subsection 117 (1), the allowed amount of a contingency fee;
33. prescribing, for the purposes of constructing the Building Operating Cost Index, the Table setting out the weighting and components thereof;
34. defining any word or expression used in this Act that has not already been expressly defined in this Act;
35. prescribing anything that by this Act is to be or may be prescribed.

Substantial
compliance
with forms,
etc.,
sufficient

115. Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Minister or the Board, as the case may be, is of the opinion that it would result in unfairness to any person.

116. Any person may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act.

Right to
organize or
participate in
association

117.—(1) No agent who represents a landlord or a tenant in any proceedings under this Act or who assists a landlord or tenant in any matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved in part or in whole through the efforts of the agent, where the proportion exceeds the prescribed amount.

Contingency
fee limited

(2) Any agreement which provides for a fee mentioned in subsection (1) is void.

Contingency
agreement
void

118.—(1) Any person who knowingly,

Offences

- (a) fails to obey an order of the Minister or the Board;
- (b) furnishes false or misleading information in any application, document, written representation or statement to the Minister under this Act or in any proceedings before the Board;
- (c) increases the rent charged for a rental unit where less than twelve months has elapsed since the date of the last rent increase;
- (d) increases the rent charged for a rental unit by more than the amount referred to in section 68 unless authorized by the Minister or the Board to do so;
- (e) charges a higher rent for a rental unit than that permitted under an order of the Minister or the Board;
- (f) charges an amount that is in contravention of section 97; or
- (g) fails to file with the Minister the statement required under section 55, in respect of the rent registry,

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

Where
corporation
convicted

Limitation

(3) Proceedings shall not be commenced, in respect of an offence under subsection (1), after one year after the date on which the offence was, or is alleged to have been, committed.

Monetary sums rounded to nearest dollar

119. Wherever under this Act a sum of money is required or permitted to be set out or expressed, the sum may be rounded to the nearest dollar and set out or expressed accordingly.

Proof of documents, etc.

120. In any prosecution for an offence under this Act, the production of any certificate, statement or document given to the Minister or to the Board under this Act or the regulations thereunder, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by such person or on such person's behalf, shall be received as *prima facie* proof that such certificate, statement or document was filed or delivered by or on behalf of that person or was made or signed by that person or on that person's behalf.

Moneys

121. The moneys required for administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

122. Clauses 134 (1) (c) and (d) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

Repeals

123. The following are repealed:

1. *Residential Complexes Financing Costs Restraint Act*, 1982, being chapter 59.
2. *Residential Complexes Financing Costs Restraint Amendment Act*, 1983, being chapter 69.
3. *Residential Complexes Financing Costs Restraint Amendment Act*, 1984, being chapter 65.
4. *Residential Tenancies Amendment Act*, 1985, being chapter 15.
5. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134 (1) (a), (b), (f) and (g), subsections 134 (2) and (3) and subsection 135 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980.

124.—(1) Despite the repeal of the provisions mentioned in section 123, those provisions shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters:

Certain provisions deemed continued in force for certain purposes

1. An application made under the *Residential Tenancies Act* before the day this section comes into force.
2. An appeal of an order made under the *Residential Tenancies Act*.
3. A court proceeding commenced before the day this section comes into force to which the Residential Tenancy Commission is a party.

(2) An application under the *Residential Tenancies Act* made before the day this section comes into force may, at any time before the hearing of the application has commenced, at the written election of the applicant, be continued and finally disposed of as an application made under the corresponding provisions of this Act.

Election to proceed under this Act
R.S.O. 1980,
c. 452

(3) For the purposes only of subsection (1), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until the expiration of the term of appointment or a day to be named by proclamation of the Lieutenant Governor, whichever is earlier.

Residential Tenancy Commission continued for certain purposes

(4) Despite subsection 117 (7) of the *Residential Tenancies Act*, an appeal from an order made under subsection 129 (2) of that Act may be heard before a single Appeal Commissioner, who need not be a member of the Board of Commissioners.

Where appeal may be heard before single Appeal Commissioner

125.—(1) This Act, except subsection 68 (1) and section 122, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

(2) Subsection 68 (1) and section 122 shall be deemed to have come into force on the 1st day of August, 1985.

Idem

126. The short title of this Act is the *Residential Rent Regulation Act, 1986*.

Short title

SCHEDULE A

(Clause 68 (1) (b))

The formula for calculating the Residential Complex Cost Index for the purposes of clause 68 (1) (b) is the greater of,

- (a) 2 per cent; or
- (b) 2 per cent plus $\frac{2}{3}$ of the percentage increase in the three-year moving average of the Building Operating Cost Index, rounded to the nearest $\frac{1}{10}$ th of 1 per cent.

The Building Operating Cost Index shall be constructed in accordance with the weighting and components set out in the prescribed Table, with the weighting adjusted annually in relation to changes, based on a three-year moving average, in the components.

SCHEDULE B

(Clauses 72 (a) and 84 (1) (a))

The formula for calculating the operating cost allowance for the purposes of clauses 72 (a) and 84 (1) (a) is,

Operating Cost Allowance = Residential Complex Cost Index less 1 percentage point X the gross potential rent for the residential complex for the month immediately preceding the effective date of the first rent increase applied for X 12.

Bill 51

An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes

The Hon. A. Curling
Minister of Housing

<i>1st Reading</i>	June 5th, 1986
<i>2nd Reading</i>	July 7th, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTES

The Bill replaces Bill 78, introduced and given first reading at the last Session of the Legislature and subsequently withdrawn, and incorporates in large measure the recommendations made to the Minister of Housing by the Rent Review Advisory Committee in its report submitted to the Minister on the 18th day of April, 1986.

The Bill replaces the provisions of the *Residential Tenancies Act* that govern rent review matters with a new Act, to be called the *Residential Rent Regulation Act, 1986*. Among the principal features of the new Act proposed by the Bill are the following:

1. The percentage amount by which a landlord may increase the rent chargeable for a rental unit without applying for an order permitting the landlord to do so is set at 4 per cent in respect of rent increases that take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987; in respect of rent increases that take effect on or after the 1st day of January, 1987, and on or after the 1st day of January in subsequent years, the percentage will be that set out in the Residential Complex Cost Index as published annually by the Minister. The Index is calculated in accordance with the formula set out in Schedule A to the Bill.
2. Two categories of rental units that are exempt from rent review under the *Residential Tenancies Act* are, under the Bill, made subject to rent regulation effective the 1st day of August, 1985. These are,
 - i. a rental unit situate in a building, no part of which was occupied as a rental unit before the 1st day of January, 1976, and
 - ii. a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976.
3. A landlord who desires to increase the rent charged for a rental unit by more than the relevant percentage is required to apply, in the first instance, to the Minister of Housing for an order permitting the landlord to do so. The authority to consider such an application and make an order may be delegated by the Minister to named officials of the Ministry of Housing. Procedures are set out in the Bill to be followed where such an application is made.
4. A board to be known as the Rent Review Hearings Board is established to which a landlord or a tenant may appeal from an order made on the initial application. A further appeal lies on a question of law from an order of that Board to the Divisional Court. No filing fees are required in respect of an appeal to the Board nor, in the case of a tenant appeal, is there a requirement that any number or proportion of tenants bring the appeal. Provision is made for the holding of a pre-hearing conference to discuss matters relevant to the conduct of an appeal to the Board.
5. Provision is made for the establishment of a rent registry that will initially compile information on the rent charged and other relevant matters in respect of residential complexes containing more than six rental units; residential complexes that contain six or fewer rental units will be brought into the registry at a later date to be prescribed, although a landlord of such a residential complex may voluntarily file the information in respect of that complex at any earlier time. Landlords will be required to file the actual rent being charged for a rental unit on the 1st day of July, 1985, or if a rental unit is not rented on that date, the rent charged when it is first rented. Tenants may dispute within a specified time period the amount of the actual rent as recorded in the rent registry; otherwise the rent recorded is deemed to be the lawful rent. Landlords who register within the time specified for doing so will not be liable to an order requiring a rebate of any excess rent that may have been collected prior to August 1st, 1985; those who do not will remain liable to an order requiring

a rebate of any excess rent collected during the six year period preceding the date of any application for rebate. After a date that is six months from the day this Act comes into force no application under the Act made by a landlord who has not registered will be proceeded with whether the time for doing so has expired or not. Provision is made for the Minister to investigate on his or her own initiative the level of the rent charged for a rental unit to determine if the rent is a lawful rent.

6. Where an order has been made under the *Residential Tenancies Act*, or is made under the new Act proposed by the Bill, for a rent increase because of an increase in financing costs that took effect on or after August 1st, 1985, at the time those increased costs are no longer borne by the landlord the Minister may determine the amount of rent increase that is no longer justified and order that the rent be not increased for the period of time set out in the order.
7. The interim restraint on the pass-through of increased financing costs resulting from the purchase of a residential complex, contained in the *Residential Complexes Financing Costs Restraint Act, 1982*, is placed on a permanent footing. The suspension of the 2 per cent relief of hardship provision contained in that Act is, however, lifted. Restored also is the provision permitting equalization of rents for similar rental units, under certain conditions, which had been suspended under the operation of that Act.
8. The allowance for a landlord's increased operating costs will be calculated in accordance with the formula set out in Schedule B to the Act.
9. In respect of pre-1976 residential complexes whose rent is "chronically depressed", as defined, provision is made for an allowance to be phased in to bring the rents to a level where they are no longer depressed. The Minister is empowered to grant financial relief to a tenant who meets certain criteria and who is required to pay the allowance.
10. In respect of post-1975 residential complexes whose landlords are experiencing an "economic loss", as defined, provision is made for an allowance to be phased in to bring the rents to a level where the landlord no longer experiences an economic loss.
11. A landlord and one or more tenants may jointly apply to determine the rent increase that will be permitted because of capital expenditures incurred or to be incurred that will affect some but not all of the rental units in a residential complex.
12. Without bringing an application to increase rents, a landlord may apply for an order permitting equalization over a period of time of the rents charged for similar rental units within a residential complex; a limit is set on the amount of rent increase attributable to equalization that may be charged for any rental unit.
13. A Residential Rental Standards Board is established and given a broad range of powers in respect of the development and enforcement of appropriate maintenance standards applicable to residential complexes and the rental units located therein.
14. The extraction of additional charges (sometimes referred to as key money) as a condition to renting or subletting any rental unit is made an offence under the Act.
15. The Lieutenant Governor in Council is empowered to prescribe by regulation procedural and interpretative rules and policies and these will be binding on the Minister or the Minister's delegates and on the Board in the interpretation

and administration of the Act; additional extensive regulation-making powers are conferred on the Lieutenant Governor in Council to prescribe in detail the manner in which applications under the Act will be dealt with.

16. The Bill contains an expanded offences provision; it will, for example, be an offence for a landlord to charge a rent that is in excess of that permitted under the Act or to fail to file the information required for the purposes of the rent registry.
17. Provisions are included in the Bill that set out the consequences, and the procedures to be followed, where a landlord has increased the rent charged for a previously exempt rental unit to take effect on or after the 1st day of August, 1985, by more than the amount of increase permitted without making an application therefor.
18. Provision is made for the licensing of persons who wish to practise as residential tenancy consultants in respect of any proceedings brought under the Act. ➡

Bill 51

1986

**An Act to provide for the
Regulation of Rents charged for
Rental Units in Residential Complexes**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Rent Review Hearings Board established under this Act;

“economic loss” means the loss experienced by a landlord whose rate of return on the landlord’s invested equity and capitalized losses in respect of a residential complex is less than the rate of return made applicable to that residential complex by subsection 80 (1), but does not include a financial loss;

“extraordinary operating cost” means a change in the cost of one item in the Building Operating Cost Index that the landlord has experienced or will experience,

- (a) that creates a variance of at least 50 per cent from the Building Operating Cost Index component, or
- (b) that would justify a variance in revenue of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component;

“financial loss” means the loss experienced by a landlord whose total costs that have been or will be experienced and that are allowed in an application made under this Act in respect of a residential complex for an annual accounting period exceed the revenue for the same period;

“landlord” includes the owner, or other person permitting occupancy of a rental unit, and his or her heirs, assigns, personal representatives and successors in title and a per-

son, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

“mail” means first-class, registered or certified mail;

“maximum rent” means the lawful maximum rent which could be charged for a rental unit had all permissible statutory or other increases which could have been taken on or after the 1st day of August, 1985, been taken;

“Minister” means the Minister of Housing or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“Ministry” means the ministry of the Minister;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

“mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

“non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

R.S.O. 1980,
c. 91

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected

or appointed by the members, or a committee thereof,

- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

"prescribed" means prescribed by the regulations made under this Act;

"rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord's agent for the right to occupy a rental unit and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing but does not include,

- (a) any amount required by the *Retail Sales Tax Act* to be collected from a tenant by a landlord, or
- (b) any amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home, or a home which is a permanent structure, owned by a tenant;

R.S.O. 1980,
c. 454

➡ "rental unit" means any living accommodation, site for a mobile home or site on which a single family dwelling is a permanent structure used or intended for use as rented residential premises and includes a room in a boarding house or lodging house;

"residential complex" means a building, related group of buildings or mobile home park, in which one or more rental units are located, or a site or related group of sites on each of which site is located a single family dwelling which is a permanent structure and includes all common areas, services and facilities available for the use of residents of the building, buildings, park, site or sites; ➡

"services and facilities" includes,

- (a) furniture, appliances and furnishings.

- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning or maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities or services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services or facilities;

“statutory increase” means the amount by which the rent charged for a rental unit may be increased without application to the Minister under this Act or may have been increased without application under the *Residential Tenancies Act* or under *The Residential Premises Rent Review Act, 1975 (2nd Session)*;

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

“subsidized public housing” means a rental unit rented to persons or families of low or modest income who pay an amount geared-to-income for that unit by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*;

R.S.C. 1970,
c. N-10
R.S.O. 1980,
cc. 209, 339

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

“tenant” means a person who pays rent in return for the right to occupy a rental unit and his or her heirs, assigns and personal representatives but does not include a person who has the right to occupy a rental unit by virtue of being a co-

owner of the residential complex in which the rental unit is situate or a shareholder of a corporation that owns the residential complex, and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

2.—(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary. Application of Act

(2) Where a provision of this Act conflicts with a provision of any other Act, except the *Human Rights Code*, 1981, the provision of this Act applies. Conflict
1981, c. 53

(3) Notwithstanding subsection (1), where a provision in a written tenancy agreement between a landlord and a tenant conflicts with the provisions of this Act concerning the amount of rent which may be charged for a rental unit, and where the tenancy agreement was entered into before the 2nd day of May, 1985, in respect of a rental unit which was, before the 1st day of August, 1985, exempt from Part XI of the *Residential Tenancies Act* under clause 134 (1) (c), (d) or (e) of that Act, the provision in the agreement applies to the rental unit so long as the tenant who entered into the agreement remains the tenant of the rental unit. Conflict with
provision in
written
agreement

R.S.O. 1980,
c. 452

(4) Subsection (3) does not apply to a tenancy agreement that provides for the payment at the commencement of the term of the tenancy of a lump sum as the basic rent for the rental unit for a term of ten or more years and that includes provision for the payment by the tenant on a periodic basis of additional amounts related to the cost of maintenance of common areas and other miscellaneous expenses associated with the rental unit. Where
subs. (3)
does not
apply

(5) Notwithstanding subsection (1), where a written agreement between a landlord and a tenant, entered into before the day this section comes into force, contains a provision requiring the landlord to repay to the tenant any amount of rent that the landlord has charged in excess of that permitted by Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act*, 1975 (2nd Session), or permitting the tenant to recover such an amount by deducting a sum from the tenant's rent for a number of rent payment periods, the provision applies notwithstanding anything to the contrary in this Act. Agreement
respecting
payment of
excess rent

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

3. This Act is binding on the Crown. Act binds
Crown

4.—(1) This Act does not apply to, Exemptions
from Act

- (a) transient living accommodation provided in a hotel, motel, inn, tourist home or hostel;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,
 - (i) the living accommodation is provided primarily to persons under the age of majority, or
 - (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households;

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him or her of services related to, a non-residential business or enterprise carried on in the building or project;

- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit.

➡ (2) The Minister, on the application of a landlord or a tenant, or on the Minister's own motion, may make an order under subsection 13 (3) declaring that the Act does not apply to particular transient living accommodation provided in a suite hotel in accordance with the regulations made under this Act.

Order
declaring
non-
application
of Act to
suite hotel

(3) This Act, except sections 5 and 6, does not apply to.

Non-
application
except for
ss. 5, 6,
of Act

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply;
- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof or situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);
- (c) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;
- (d) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

R.S.C. 1970,
c. N-10

Subsidized
public
housing

(4) This Act does not apply to an increase in the amount geared-to-income paid by a tenant in subsidized public housing who is occupying a rental unit, other than a unit referred to in clause (3) (a) or (b), but this Act does apply to the unit itself.

PART I

NOTICE OF RENT INCREASES

Notice of
rent increase

5.—(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant a notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, and of the current maximum rent, if it is higher than the current rent, intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

Increase
void where
no notice

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Notice
unnecessary
for new
tenant

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase takes effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice of
rent
increase
deemed
in compliance
with
R.S.O. 1980,
c. 232,
ss. 123,
129 (1)

(4) A notice of rent increase given in compliance with this section and section 21 or in compliance with subsection 60 (1) and section 99 of the *Residential Tenancies Act* shall be deemed to be and always to have been sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

Where tenant
fails to give
notice of
termination

6.—(1) Where a tenant who has been given a notice of an intended rent increase under section 5 fails to give the landlord proper notice of termination under the *Landlord and Tenant Act*, the tenant shall be deemed to have accepted the amount of rent increase that does not exceed the amount allowed under this Act.

Deemed
acceptance
not
to constitute
waiver of
tenant's
rights

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in subsection (1) does not constitute a waiver of the tenant's rights to take whatever proceedings are available under this Act in respect of the rent that may be charged for a rental unit.

7. Where a notice of an intended rent increase has been given under section 5, a rent increase up to the lesser of,

Rent
chargeable
until order
takes effect

- (a) the intended rent increase specified in the notice;
and
- (b) the limit imposed by section 71.

may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

PART II

GENERAL

8. The Minister is responsible for the administration of this Act.

Adminis-
tration

9. The Minister may by order establish regions in Ontario for the purposes of this Act.

Minister may
establish
regions

10. All proceedings under this Act shall be held in the region in which the residential complex in question is situate unless the Minister or the Board, as the case may be, otherwise directs.

Proceedings
in region

11. The Minister shall,

Duties of
Minister

- (a) provide information and advice to the public on all residential tenancy matters including referral where appropriate to social or community services and public housing agencies;
- (b) investigate cases of alleged failure to comply with an order made under this Act or to comply otherwise with the provisions of this Act and, where the circumstances warrant, commence or cause to be commenced proceedings in respect of the alleged failure to comply;
- (c) take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations established by this Act; and
- (d) establish such committee or committees as the Minister considers advisable to periodically review and make recommendations, commencing in 1989, to

the Minister concerning the Residential Complex Cost Index and the Building Operating Cost Index.

Delegation

12. The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

Exclusive jurisdiction of Minister and Board

13.—(1) Subject to subsections (4) and (5), the Minister and, on an appeal or where a matter has been referred to it by the Minister, the Board, have exclusive jurisdiction to examine into and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Minister and the Board.

Procedural and interpretative rules and policies

(2) The Minister and the Board, in the interpretation and administration of this Act or when exercising any power or discretion conferred under this Act, shall observe such procedural and interpretative rules and policies as are prescribed.

Minister may determine application of Act, etc.

(3) The Minister, on the application of a landlord or a tenant, or on the Minister's own motion, may make an order determining,

- (a)** whether this Act applies to a particular rental unit or residential complex;
- (b)** the rental units, common areas, services and facilities that are included in a particular residential complex;
- (c)** whether an agreement referred to in subsection 97 (4) has been entered into as a result of some form of coercion; and
- (d)** any other prescribed matter of concern respecting the application of this Act.

No order for payment over \$3,000

(4) In any proceedings under this Act, neither the Minister nor the Board shall make an order for the payment of money in excess of \$3,000, but where the Minister or the Board would be justified in making an order for the payment of money in excess of \$3,000, the person to whom the payment would otherwise be made may, by notice in writing in the prescribed form filed with the Minister or the Board, abandon the excess over \$3,000 and the Minister or the Board in that case may make an order for the payment of \$3,000 to the per-

son and the abandonment extinguishes all rights in respect of the excess.

(5) Where, under this Act, a person claims a sum of money in excess of \$3,000, he or she may institute proceedings therefor in any court of competent jurisdiction and the court may exercise any powers that the Minister or the Board could have exercised had the proceedings been before the Minister or the Board.

Court
jurisdiction

14.—(1) A board to be known as the Residential Rental Standards Board, hereinafter called the Standards Board, is established, composed of such number of members as the Lieutenant Governor in Council appoints.

Residential
Rental
Standards
Board
established

(2) The Standards Board shall be assisted in the performance of its duties by such officers and employees of the Ministry as the Minister assigns for the purpose.

Assignment
of staff to
Standards
Board

(3) The members of the Standards Board shall be paid such remuneration and expenses as the Lieutenant Governor from time to time determines.

Remunera-
tion

(4) No action or other proceeding for compensation or damages shall be instituted against the Standards Board or any member of the Standards Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity for
acts done in
good faith

15.—(1) The Standards Board shall.

Duties of the
Standards
Board

- (a) recommend to the Minister the appropriate minimum maintenance standards that should be made applicable to residential complexes and the rental units located therein and appropriate standards relating to the health and safety of the occupants thereof;
- (b) recommend to the Minister the powers and duties that should be conferred or imposed on the Standards Board respecting the development and enforcement of appropriate maintenance standards for residential complexes and the rental units located therein and for standards relating to the health and safety of the occupants thereof;
- (c) recommend to the Minister the form and content of such educational or other programs as will ensure

that landlords and tenants are made aware of the benefits conferred and obligations imposed by the provisions of this Act respecting maintenance standards and their enforcement;

(d) recommend to the Minister methods of providing for recognition of the importance of dialogue between the landlord and the tenants occurring on a meaningful and timely basis regarding proposed capital expenditures in respect of a residential complex while at the same time acknowledging the rights and responsibilities of landlords to manage their buildings;

(e) receive a copy of any order relating to a residential complex or any rental unit located therein,

1983, c. 1

(i) issued by a property standards officer under a by-law passed under section 31 of the *Planning Act, 1983* or a predecessor thereof or passed under any special Act respecting standards for maintenance and occupancy that is in force in a municipality, or

(ii) made under the provisions of any general or special Act, or any by-law passed thereunder, respecting standards relating to the health or safety of occupants of buildings or structures,

and any notices of appeal from such an order;

(f) receive and investigate any written complaint from a current tenant of a rental unit respecting the standard of maintenance that prevails in respect of the rental unit or residential complex in which the rental unit is located, where minimum maintenance standards adopted by the Standards Board under the authority of subsection 16 (1) are in force in the area in which the residential complex is situate.

Where
Standards
Board
receives copy
of main-
tenance order

(2) Where the Standards Board receives a copy of an order referred to in clause (1) (e), the Standards Board shall determine whether the standard or standards to which the order relates is or are substantial and if so may cause such investigation to be made as the Standards Board considers necessary to enable it to determine whether or not the order has been complied with in accordance with its terms, and if not, whether the non-compliance is substantial.

(3) Where the Standards Board determines under subsection (2) that substantial non-compliance with a substantial standard has occurred and is subsisting, the Standards Board shall give to the Minister a report in writing setting out the findings of the Standards Board in respect of the matter and shall at the same time give a copy of the report to the landlord of the residential complex and to the tenant of any rental unit affected thereby.

Report to
the Minister

(4) Where the report received by the Minister under subsection (3) indicates that substantial non-compliance with a substantial standard has occurred and is subsisting, the Minister, on his or her own motion, may order that any increase in the rent for a rental unit in the residential complex affected by the maintenance and occupancy order,

Order that
rent increase
be not
collected

- (a) that will take effect on or after the date of the Minister's order; or
- (b) that took effect at any time in the nine-month period preceding the date of the Minister's order,

be not collected by the landlord until the Minister either receives a report from the Standards Board that the residential complex and any affected rental unit located therein are in substantial compliance with the provisions of the maintenance and occupancy order or so determines under subsection (8).

(5) Where the Minister makes an order under subsection (4) to which clause (b) thereof applies, the order shall specify the date the report of the Standards Board is given to the Minister under subsection (3) as the date on or after which the landlord may not collect an increase in rent.

Date after
which
landlord may
not collect
rent increase

(6) Where the tenant of a rental unit affected by an order of the Minister made under subsection (4) has paid to the landlord any amount of an increase in rent that is declared by the order not to be collected, the Minister shall order the landlord to repay to the tenant the amount of the increase in rent that was paid.

Order for
repayment of
rent increase

(7) An order made by the Minister under subsection (4) may provide that where a report from the Standards Board that the residential complex and the rental units situate therein are in substantial compliance with the provisions of the maintenance and occupancy order is not received by the Minister, or where the Minister does not so determine under subsection (8), within such period of time as the Minister specifies in the order, the right of the landlord to collect any increase in the rent for a rental unit situate in the residential

Collection of
rent increase
forfeited

complex is forfeit and no increase in the rent for such a rental unit may be collected by the landlord except in respect of a period commencing after the day the Minister either receives such a report from the Standards Board or determines under subsection (8) that there is substantial compliance.

Notice to
Minister of
completion of
work

(8) Where a landlord to whom an order has been given under subsection (4) completes the work in respect of which the order was made, the landlord may give a notice to that effect to the Minister and thereupon or where for any other reason the Minister considers it desirable to do so, the Minister may inspect or cause to be inspected the work to determine whether there is substantial compliance with the maintenance and occupancy order for the purposes of subsection (4) or (7).

Matters
taken into
account by
Minister

(9) In deciding whether to make an order under subsection (4), or to include the provision authorized by subsection (7), the Minister shall take into account,

- (a) the nature of the work required to be performed to comply with the maintenance and occupancy order and the history of the matter that is the subject of that order;
- (b) actual seasonal factors and financial constraints affecting the ability of the landlord to perform the required work; and
- (c) the availability of the persons and materials required to perform the required work.

Effect of
order under
R.S.O. 1980,
c. 232, s. 96

(10) The Minister shall not make an order under subsection (4) where an order has been made under section 96 of the *Landlord and Tenant Act* and where compliance with that order would afford an adequate remedy to the tenant of any affected rental unit.

Inspection

(11) Subject to subsection (12), any member of the Standards Board and any employee of the Ministry assigned by the Minister to assist the Standards Board in the exercise of its powers under this Act may, on giving adequate prior written notice of the intention to do so, at reasonable times and upon producing proper identification, enter and inspect any residential complex or rental unit located therein.

Entry into
dwelling
place
R.S.O. 1980,
c. 400

(12) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, a member of the Standards Board or an employee of the Ministry referred to in subsection (11) shall not enter any room or place actually

used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

16.—(1) The Standards Board shall develop and adopt such minimum maintenance standards as it considers appropriate to make applicable to residential complexes and the rental units located therein that are situate in an area.

Adoption of
minimum
maintenance
standards

- (a) where no by-law passed under section 31 of the *Planning Act, 1983* or a predecessor thereof or passed under any special Act respecting standards for maintenance and occupancy is in force;
- (b) where, although such a by-law is in force, the maintenance standards set out in it are, in the opinion of the Standards Board arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this Act; or
- (c) where, although such a by-law is in force, the methods of enforcement of the by-law are, in the opinion of the Minister arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this Act.

1983, c. 1

(2) Upon adopting minimum maintenance standards under subsection (1), the Standards Board shall cause the standards to be published in *The Ontario Gazette* and shall give such further notice thereof as the Standards Board considers appropriate to bring the standards to the attention of landlords of residential complexes and the tenants of the rental units located therein that are affected thereby.

Notice

(3) Upon receiving a complaint under clause 15 (1) (f), the Standards Board shall cause such investigation to be made as the Standards Board considers necessary to enable it to determine whether there exists substantial non-compliance with a substantial maintenance standard adopted by the Standards Board.

Investigation

(4) Where the Standards Board is satisfied that there exists in respect of a residential complex or the rental units located therein substantial non-compliance with a substantial maintenance standard adopted by the Standards Board, the Standards Board may make and give or cause to be given to the landlord of the residential complex an order containing,

Contents of
order

- (a) the municipal address or legal description of the residential complex;
- (b) reasonable particulars of the work to be performed and the period within which there must be compliance with the terms of the order; and
- (c) the time limited for applying to the Minister for a review of the order.

Application
for review of
order

(5) Where a landlord to whom an order has been given under subsection (4) is not satisfied with the terms of the order, the landlord may, within fourteen days of the giving of the order, make an application in the prescribed form to the Minister to review the order.

Order of
Minister

(6) On an application under subsection (5), the Minister may by order,

- (a) affirm the order of the Standards Board;
- (b) quash the order of the Standards Board;
- (c) vary the order of the Standards Board; or
- (d) substitute the Minister's own order for the order of the Standards Board.

Copy of
order

(7) The Minister shall forthwith give a copy of an order made under subsection (6) to the landlord and to any tenant directly affected by the order.

Appeal from
the Minister's
order under
subs. (6)


(8) An order of the Minister made under subsection (6) may be appealed to the Board only in the manner and under the circumstances set out in subsection (10) except that subsection (10) does not apply to an order made under subsection (6) that quashes the order of the Standards Board.

Order of the
Minister

(9) Where the Minister on the report of the Standards Board is satisfied that an order under this section has not been substantially complied with in accordance with its terms within the period set out for doing so, the Minister, after taking into account the matters mentioned in subsection 15 (9), may, on his or her own motion, make any order the Minister is empowered to make under subsection 15 (4) or (7), the provisions of which subsections apply with necessary modifications.

Joining of
appeals from
Minister's
orders made
under subs.
(6) and (9)

(10) Where a landlord or tenant appeals to the Board from an order of the Minister made under subsection (9), the landlord or tenant may at the same time appeal from any related

order of the Minister made under subsection (6), and where the landlord or tenant does so the Board shall hear and determine both appeals together. 

PART III

PROCEDURE

17. A person may make an application to the Minister as a landlord or as a tenant, provided the person was a landlord or a tenant at the time the conduct giving rise to the application occurred. Who may make application

18.—(1) An application to the Minister shall be made in the prescribed form and shall be signed by the person making the application or his or her agent. Form of application

(2) Where a landlord makes an application to the Minister and the name of any tenant directly affected by the application is not known to the landlord, the name of the tenant may be shown in the application as "tenant" and all orders shall be binding on the tenant occupying the rental unit as if the tenant had been correctly named. Where name of tenant not known

(3) Where a tenant makes an application to the Minister and the name of the landlord is not known to the tenant, the name of the landlord may be shown in the application as "landlord" and all orders shall be binding on the landlord as if the landlord had been correctly named. Where name of landlord not known

19.—(1) Where a landlord makes an application to the Minister, the landlord shall within ten days give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application. Landlord must give copy of application to tenant, etc

(2) Where a tenant makes an application to the Minister, the tenant shall within ten days give a copy of the application to the landlord. Tenant must give copy of application to landlord

(3) Where, before an order is made in respect of any application to the Minister, a landlord or tenant is succeeded by a new landlord or tenant, the applicant shall within ten days of becoming aware of such change give the new landlord or tenant a copy of the application. Where new landlord or new tenant

(4) The Minister shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Minister shall be deemed to be compliance with this section. Minister may give written directions

Extension
of time for
application,
etc.

(5) The Minister may, whether or not the time for making an application to the Minister or giving a copy of the application to any party or filing any documents has expired and where the Minister is of the opinion that it would not be unfair to do so, extend the time for the making of the application to the Minister or giving the application to any party or the filing of any documents, and the Minister may attach such terms and conditions to the extension of time as the Minister considers appropriate and shall give notice in writing of the extension of time to all affected parties.

Application
of
subss. (1-5)
to appeals

(6) The provisions of subsections (1) to (5) apply with necessary modifications to appeals to the Board under Part VII of this Act.

Non-
application
to joint
applications

(7) This section, except for subsection (5), does not apply to a landlord and any tenants who jointly make an application under section 86 or 89, or who jointly appeal an order made pursuant to the application.

Notice to
tenant where
rental unit
sublet

20.—(1) A tenant who has sublet a rental unit may give notice in writing to the landlord that the tenant requires the landlord to give him or her a copy of any application made by the landlord under this Act or any other notice required to be given by the landlord under this Act that affects the rental unit that is the subject of the subletting and where the tenant does so the landlord shall give a copy of the application or other notice to the tenant by sending it by mail to the address set out in the notice given by the tenant.

Notice to
prospective
new tenant

➡ (2) The landlord shall, before entering into a tenancy agreement with a new tenant, give the new tenant a notice in writing setting out the maximum rent for the rental unit and shall inform the new tenant of the most recent notice of rent increase given, any pending application made by the landlord under this Act and any current order made in respect of an application or made on the Minister's own motion and any notice of appeal that is pending therefrom.

Where tenant
not informed
of maximum
rent

(3) Where the landlord fails to give the new tenant a notice setting out the maximum rent for the rental unit, if the rent initially charged the new tenant is less than the maximum rent, subsection 71 (4) does not apply unless the new tenant has occupied the rental unit for at least a twenty-four month period. ▲

Method of
giving notice,
etc.

21.—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by,

(a) handing it to the person, or,

(i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or

(ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;

(b) leaving it in the mail box where mail is ordinarily delivered to the person;

(c) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or

(d) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing.

Where notice given by mail

(3) Notwithstanding the other provisions of this section, the Minister or the Board, as the case may be, may in writing direct a notice or document to be given in any other manner.

Minister or Board may give written directions

(4) Notwithstanding the other provisions of this section, a notice or document shall be deemed to have been validly given where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended within the time for the giving of the notice or documents under this Act.

Actual notice is sufficient

(5) The computation of time under this Act shall be in accordance with prescribed rules.

Computation of time

22. The parties to an application or an appeal are the persons making the application or appeal, any person entitled, other than under subsection 19 (3), to receive a copy of the application or a notice of appeal and any person added as a party by the Minister or the Board.

Parties to application or appeal

23. Where, in any proceedings under this Act, the Minister or the Board is of the opinion that,

Changing parties, amending applications

(a) a person who should be included as a party has not been included as a party or that a party has been incorrectly named, the Minister or the Board, as the case may be, shall, unless it would be unfair to do so, require that the person be substituted or added

as a party to the proceedings, or be correctly named;

- (b) a person who has been included as a party should not be included as a party, the Minister or the Board, as the case may be, shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application or the notice of appeal is justified and fair, the Minister or the Board, as the case may be, may direct the application or notice of appeal be amended accordingly.

Frivolous
or vexatious
applications
or appeals

24. The Minister or the Board, as the case may be, may refuse to continue any proceedings where, in the opinion of the Minister or the Board, as the case may be, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Withdrawing
application

25.—(1) An applicant may withdraw an application at any time before the time for submitting representations has ended and thereafter the application may only be withdrawn with the consent of the Minister and the Minister may impose terms on which his or her consent is given.

Withdrawing
joint
application

(2) A landlord who is party to a joint application under section 86 or 89 may withdraw the application as provided in subsection (1).

Idem

(3) Where all the tenants who are parties to a joint application under section 86 or 89 desire to withdraw the application, they may do so as provided in subsection (1).

Idem

(4) Where the tenants of less than all of the rental units subject to a joint application under section 86 or 89 desire to withdraw the application, they may withdraw their rental units from the application as if they were withdrawing an application under subsection (1) and the application shall continue in respect of the remaining rental units that are subject to the application.

Withdrawing
appeal

(5) A landlord or tenant may withdraw an appeal at any time before the hearing of the appeal has commenced but, where the hearing has commenced, the appeal may only be withdrawn with the consent of the Board and the Board may impose terms on which its consent is given.

Withdrawing
joint
appeal

(6) Where an appeal of an order made under section 87 or 89 has been brought jointly by a landlord and one or more tenants, the appeal may be withdrawn under subsection (5)

only where the landlord or all tenants who are parties to the appeal desire to withdraw the appeal.

26.—(1) Where a landlord or a tenant makes an application other than under section 74 or 86, except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

Filing of documents

(2) Any party to an application referred to in subsection (1) may inspect the application and the documents and material filed in respect thereof and any party other than the applicant may submit representations in respect of the application and the material filed therewith not later than thirty days from the date of making the application, or such later date as the Minister may allow and where a party does so, the applicant may submit representations in response thereto not later than forty-five days from the date of the making of the application.

Inspection and submission of representations

(3) Where the Minister extends the time for filing set out in subsection (1), the Minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations under subsection (2) in consequence thereof.

Effect of extension of time

27. All parties to a proceeding under this Act and all persons who have received a notice under section 28 are entitled to examine, and the Minister and the Board, as the case may be, shall make available for examination all material filed with the Minister or the Board pertaining to the proceeding.

Parties may examine material

28.—(1) Before making any order that the Minister is empowered to make on his or her own motion, the Minister shall give a notice in the prescribed form to any landlords and tenants who would be directly affected by the order, and the Minister shall not make an order sooner than sixty days after the giving of the notice.

Notice by Minister

(2) Any person who receives a notice under subsection (1) may, not later than thirty days from the giving of the notice by the Minister, submit documents and make representations to the Minister in respect thereof.

Submission of documents and representations

29. The Minister may at any time in his or her discretion refer any application made to the Minister, or any matter that has been commenced on the Minister's own motion, to the Board and the Board in such case shall hear and determine

Referral of application to Board

the application or matter as though it were an appeal under Part VII.

Powers of
Minister

30.—(1) The Minister in respect of any application, or any matter that has been commenced on the Minister's own motion, under this Act may,

- (a) conduct any enquiry or inspection of documents or premises the Minister considers necessary;
- (b) question any person, by telephone or otherwise;
- (c) convene a meeting between the parties to the application or between any persons directly affected by the order for the purpose of discussion of issues raised by the application or matter; and
- (d) by notice in writing, direct any party to the application, or any person directly affected by the matter, to file, within such time as is set out in the notice, such information or additional information as the Minister considers necessary.

Time and
place of
meeting

(2) So far as is practicable, the Minister shall hold the meeting mentioned in clause (1) (c) at a time and place agreed to by the parties or persons directly affected.

Inspection

(3) Where, under clause (1) (d), the Minister has directed information or additional information to be filed, the Minister shall notify each of the other parties to the application or landlords and tenants directly affected of the direction and any other party to the application or landlord or tenant directly affected may inspect the information or additional information filed and may submit representations in respect thereof not later than twenty days from the date on which the information or additional information was required to be filed.

Time for
submitting
represent-
ations

(4) Where a direction under clause (1) (d) is in respect of an application made under section 74 (whole building review), any party to the application may submit representations in respect thereof not later than forty days before the effective date of the first rent increase applied for or not later than twenty days from the date on which the information or additional information was required to be filed, whichever the last occurs.

Where
information
or additional
information
not filed

(5) Where any party to an application fails to comply with a direction of the Minister under clause (1) (d) to file any information or additional information, the Minister may,

- (a) in the case of the applicant, refuse to make an order granting the application or that part of the application relating to the failure to comply with the direction; and
- (b) in the case of any other party to the application, or person directly affected by the matter, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

31. In making any determination in an application under this Act or on any matter commenced on the Minister's own motion, the Minister,

Matters to be considered by Minister

- (a) shall consider any documents, material and oral or written representations submitted in respect of the application or matter commenced on the Minister's own motion; and
- (b) may consider any relevant information obtained by the Minister in addition to the information referred to in clause (a), provided that the Minister first informs the parties of the additional information and gives them an opportunity to explain or refute it.

32. Where an application is made to the Minister under this Act, or where the Minister gives a notice under section 28, a hearing shall not be held in respect of the application or the matter referred to in the notice and the *Statutory Powers Procedure Act* does not apply to the Minister in the exercise of a statutory power of decision under this Act.

Non-application of R.S.O. 1980, c. 484

33.—(1) An order made by the Minister under this Act, subject to Part VII, is final, binding and not subject to review and shall take effect and is enforceable according to its terms from the date it is made.

Order of Minister final

(2) Where the Minister makes an order under this Act, the Minister shall forthwith give a copy of the order to each of the parties to the application, or where the order is made on the Minister's own motion, to each landlord and tenant directly affected by the order, together with a written summary in the prescribed form of reasons for the order.

Copy of order

34.—(1) The Minister or the Board may include in any order terms and conditions the Minister or the Board, as the case may be, considers proper in all the circumstances.

Terms and conditions

Clerical
errors

(2) An order made by the Minister or by the Board that contains a clerical error or omission of the Minister or the Board may be amended by the Minister or the Board, as the case may be, at any time before the hearing of any appeal of the order has been commenced.

Where tenant
may deduct
amount from
rent

35.—(1) Where the Minister or the Board makes an order requiring a landlord to pay an amount of money to a tenant, the Minister or the Board may make an order that the tenant may recover the amount by deducting a specified sum from his or her rent for a specified number of rent payment periods.

Lump sum
payments

(2) The Minister or the Board may, on the application of the tenant, rescind an order made under subsection (1) and may order that any compensation still owing be paid in a lump sum.

Enforcement
of order for
the payment
of money

36.—(1) A certified copy of an order of the Minister or the Board, as the case may be, for the payment of money may be filed with the Supreme Court, the District Court or the Provincial Court (Civil Division) and, on being filed, the order has the same force and effect and all proceedings may be taken on it as if it were a judgment of that Court.

Variation
of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

- (a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or
- (b) if the order or decision varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1).

PART IV

RENT REVIEW HEARINGS BOARD

Board
established

37. A board to be known as the Rent Review Hearings Board is established.

Composition
of Board

38.—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint.

(2) The members of the Board who are not members of the public service of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Remuneration

(3) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to members of the Board.

Application of R.S.O. 1980, c. 419, 490

39. Members of the Board, other than the vice-chairman, shall not be members of the public service of Ontario, and shall hold office during pleasure.

Term of office

40. Subject to subsection 103 (2), one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board in any proceedings before the Board.

Quorum

41.—(1) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman, and another of the members as vice-chairman.

Chairman and vice-chairman

(2) The chairman shall from time to time assign members of the Board to its various sittings and shall be the chief executive officer of the Board.

Chairman chief executive officer

(3) The vice-chairman is responsible for the general administration of the affairs of the Board and where the chairman is absent or unable to act, the vice-chairman may act as chairman.

Absence, etc., of chairman

42. Where a member of the Board resigns or retires, or for any other reason ceases to be a member, the member may, with the consent of the chairman, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties or responsibilities and exercise any powers that the member would have had if the member had not ceased to be a member of the Board.

Completion of matters by members who resign or retire, etc

43.—(1) The members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties.

Members full time

(2) The members shall file with the Board a written declaration of any interests they have in residential rental property, and shall be required to comply with the conflict of interest guidelines established by the Board.

Conflict of interest

Staff

R.S.O. 1980,
c. 418

44. Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional
assistance

45. Subject to such conditions as the Minister may set, the Board may engage persons other than those appointed under section 44 to provide professional, technical or other assistance to the Board and may establish the duties and terms of the engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity
for acts done
in good faith

46. No action or other proceeding for compensation or damages shall be instituted against the Board, any member of the Board or any member of the Board staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Publication
of decisions

47. The Board shall, at least annually, prepare and publish a summary of significant decisions of the Board and the reasons therefor.

Board to
adopt
expeditious
procedures

48. The Board shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter.

Decision to
be on merits

49.—(1) Every decision of the Board shall be upon the real merits and justice of the case.

Board to
ascertain
substance of
transactions
and activities,
etc.

(2) In determining the real merits and justice of the case, the Board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

- (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex.

Audit

50. The accounts of the Board shall be audited annually by the Provincial Auditor.

Annual
report

51.—(1) The Board shall at the close of each year file with the Minister an annual report upon the affairs of the Board.

(2) The Board shall make such further reports to the Minister and provide the Minister with such information as the Minister from time to time requires. Further reports

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session. Tabling of reports

52. All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature. Moneys

53. The Board may charge and collect such fees as are prescribed for furnishing to any person, at his or her request, copies of forms, notices or documents filed with or issued by the Board. Fees

PART V

RENT REGISTRY

54.—(1) In this Part, Definitions

“actual rent”, except where otherwise prescribed, means the rent actually charged for a rental unit as of the actual rent date;

“actual rent date” means,

(a) the 1st day of July, 1985, or

(b) where a rental unit was not rented on the 1st day of July, 1985, the first date on which that rental unit is rented after the 1st day of July, 1985.

55. The Minister shall establish and maintain a rent registry for all residential complexes that are subject to this Act. Establishment of rent registry by Minister

56.—(1) The Minister shall, on the request of any person made in the prescribed manner, furnish that person with information that is recorded in the rent registry in respect of any rental unit, but may limit the information so furnished in accordance with the prescribed rules. Furnishing of information from rent registry

(2) The Minister may charge such fees as are prescribed for furnishing information under subsection (1). Fees

57.—(1) Every landlord of a residential complex containing more than six rental units, other than a residential com- Filing of statement by landlord

plex that is a boarding house or a lodging house, shall file a statement in the prescribed form with the Minister,

- (a) on or before the first day of the month that falls not sooner than ninety days after the day this section comes into force, in respect of all rental units in the residential complex that were rented on or before the day this section comes into force; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(2) Every landlord of a residential complex containing six or fewer rental units or of a residential complex that is a boarding house or a lodging house shall file the statement mentioned in subsection (1),

- (a) on or before a date to be prescribed, in respect of all rental units in the residential complex that were rented on or before that date; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(3) Notwithstanding that a date has not been prescribed under subsection (2), a landlord of a residential complex containing six or fewer units or of a residential complex that is a boarding house or a lodging house may file the statement mentioned in subsection (1) at any time.

Contents of
statement

58.—(1) The statement mentioned in section 57 shall set out the following information:

1. The name and address of the landlord and, where the landlord is not ordinarily resident in Ontario, the name and the address of the landlord's representative or agent in Ontario.
2. The municipal addresses of all buildings which form part of the residential complex.
3. The type (by number of bedrooms) and location (by suite number or other means of identification) of each rental unit in the residential complex that is

subject to rent regulation, together with the actual rent for each such rental unit and the date the actual rent was first charged.

4. Those services and facilities, accommodations and things included in the actual rent for which a separate charge is allocated and the amount of each.
5. Whether the landlord, as of the actual rent date, was responsible for providing hydro, water, heat, cablevision or parking without the allocation of a separate charge.
6. The provisions of any written tenancy agreement mentioned in subsection 2 (3) which conflict with the provisions of this Act concerning the amount of rent that may be charged for a rental unit.
7. The type and location of each rental unit in the residential complex, if any, in respect of which the information in paragraphs 3 to 6 is not required to be set out in the statement, together with the reasons therefor.
8. Such other information as is prescribed.

(2) Subject to subsection (3), the statement filed with the Minister under section 57 shall contain a certification signed by the landlord or, if the landlord is a corporation, signed by the president, secretary or other authorized senior officer thereof, certifying that the information contained in the statement, and any attachments thereto, is true, correct and complete to the best of the landlord's knowledge and belief.

Certification

(3) A landlord may authorize an agent in writing to make the certification mentioned in subsection (2), and the Minister may require a copy of the document authorizing the agent to make the certification to be filed.

Certification
by agent

59.—(1) Where an order issued under this Act, the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)* affects the rent which may be charged for a rental unit for which the actual rent has been set out in a statement filed under section 57, the Minister shall calculate the amount obtained by adding to the rent set out in the most recent such order all permissible statutory increases from the effective date of the rent in the order to the actual rent date.

Minister to
calculate
amount
where
prior order
affects
rental unit
R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

Application
within 90
days

(2) Where the actual rent for a rental unit set out in the statement is the same as or lower than the amount calculated under subsection (1), or does not exceed that amount by more than the prescribed percentage, the time for making an application under section 61 in respect of that rental unit shall be not later than ninety days from the day of the giving by the Minister of a notice under section 60.

Application
within
two years

(3) Where the actual rent for a rental unit set out in the statement exceeds the amount calculated under subsection (1) by more than the prescribed percentage, or where there are no prior orders affecting the rent which may be charged for a rental unit, the time for making an application under section 61 in respect of that rental unit shall be not later than two years from the day of the giving by the Minister of a notice under section 60.

Notice to
landlord of
rents
recorded

60.—(1) As soon as is practicable, the Minister shall give to every landlord who has filed a statement under section 57 a notice in the prescribed form setting out the information recorded for all rental units for which the statement was filed and the time for making an application under section 61.

Notice to
tenant of
rent
recorded
for
tenant's
rental unit

(2) As soon as is practicable, the Minister shall give to the tenant of every rental unit in respect of which the landlord is given a notice under subsection (1) a notice in the prescribed form setting out the recorded information pertaining to the tenant's rental unit and the time for making an application under section 61.

Application
to dispute
information
in notice

61.—(1) A landlord or a tenant who has been given a notice under section 60 may, in the time permitted by subsection 59 (2) or (3), whichever applies, make an application in the prescribed form to the Minister to correct or amend any information in the notice or to dispute the legality of the actual rent.

Application
for
declaration
of lawful rent

(2) A landlord who has been given a notice under subsection 60 (1) may in the time permitted by subsection 59 (2) or (3), whichever applies, make an application in the prescribed form to the Minister for an order declaring the actual rent recorded in the rent registry to be the lawful maximum rent as of the actual rent date.

Where actual
rent recorded
is deemed
lawful rent

(3) Where no application under subsection (1) or (2) is made and no notice mentioned in subsection (4) is given, the rent recorded in the rent registry for such rental unit shall be deemed to be the lawful maximum rent as of the actual rent date.

(4) In respect of any rental unit mentioned in subsection 59 (3), the Minister,

Investigation by Minister

- (a) shall, in the case of a rental unit whose rent is affected by a prior order; and
- (b) may, in the case of a rental unit whose rent is not affected by a prior order,

investigate the rents charged for such rental unit and may, on the Minister's own motion, make any order which could have been made had the landlord or the tenant made an application under subsection (1) or (2), provided that the notice under subsection 28 (1) is given by the Minister within the time for making an application in respect of that rental unit.

62.—(1) In any application under section 61, or in response to the Minister's own motion under that section, the landlord may justify the actual rent for any rental unit by adding to the rent permitted to be charged set out in the most recent order made under this Act, Part XI of the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)*, or where no order exists, to the rent charged for the rental unit on the 29th day of July, 1975, or on the earliest date thereafter for which the rent charged is known,

Justification by landlord of actual rent

R.S.O. 1980, c. 452, 1975 (2nd Sess.), c. 12

- (a) rent increases permitted by Part XI of the *Residential Tenancies Act* and *The Residential Premises Rent Review Act, 1975 (2nd Session)*; and
- (b) rent increases that could have been justified on or after the 29th day of July, 1975, and before the 1st day of August, 1985, on an application made under section 126 of the *Residential Tenancies Act*, had that Act been in force during the whole of that period of time and had the disposition of the application been governed by the prescribed rules made under this Act,

R.S.O. 1980, c. 452

provided that only an increase permitted or justified under either clause (a) or (b), but not both, may be relied upon to calculate the rent increase for any one twelve-month period.

(2) Where clause (1) (b) is relied upon to calculate a rent increase, the Minister shall determine the justified rent increase in accordance with the prescribed rules and shall consider, in the prescribed manner, any services or facilities that have been added or discontinued on or after the 29th day of

Determination of justified rent increase by Minister

July, 1975, and before the 1st day of August, 1985, and that affect the rental unit.

Where rent justified lower than actual rent

(3) Where under this section the landlord, in respect of any rental unit, justifies a rent that is lower than the actual rent, the amount so justified by the landlord shall be deemed to be the lawful maximum rent for that rental unit as of the actual rent date.

Where section does not apply

(4) This section does not apply to a rental unit situate in a residential complex in respect of which the statement mentioned in section 57 has not been filed within the time permitted for filing.

Filing of documents and material by landlord

63.—(1) Where a landlord makes an application under subsection 61 (1) or (2) to justify under section 62 the actual rent charged for a rental unit, the landlord shall, not later than thirty days from the date of making the application, file with the Minister the documents and material the landlord relies upon in support of the application and such other material as may be prescribed.

Inspection and submission of representations by tenant

(2) Any tenant affected by the application may inspect the application and any documents and material filed in respect thereof and may submit representations in respect of the application and the documents and material filed therewith not later than eighty days from the date of making the application.

Filing of documents and material by tenant

(3) Where a tenant makes an application under subsection 61 (1), the tenant shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the tenant relies upon in support of the application and such other material as may be prescribed.

Filing of justification, etc., by landlord; response by tenant

(4) A landlord who proposes, in response to a tenant's application under section 61, to justify under section 62 the actual rent charged for a rental unit shall, not later than forty-five days from the date of the making of the tenant's application, file with the Minister a justification in the prescribed form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within ten days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than ninety-five days from the date of the making of the tenant's application.

Idem

(5) A landlord who proposes, in response to the Minister's proposal to make an order under subsection 61 (4), to justify

under section 62 the actual rent charged for a rental unit, shall, not later than thirty-days from the giving by the Minister under subsection 28 (1) of the notice in respect of the proposed order, file with the Minister a justification in the prescribed form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within ten days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than eighty days from the date of the giving of the notice by the Minister under subsection 28 (1).

(6) Where the Minister extends the time for filing set out in this section, the Minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations in consequence thereof.

Effect of
extension of
time

64. In any order made by the Minister under this Part, the Minister shall,

Order of
Minister

- (a) declare the maximum rent that may be charged for each rental unit subject to the order and the earliest date that each may take effect; and
- (b) require any necessary changes to be made to the information recorded in the rent registry.

65. Where the Minister is satisfied that any information recorded in the rent registry is incorrect due to a clerical error or omission, the Minister may, within two years of the date of the error or omission, amend the rent registry accordingly and shall notify the affected parties of any corrected information.

Clerical
errors

66.—(1) Where a landlord has filed a statement under section 57 within the time permitted for filing, no amount shall be ordered under subsection 95 (2) in respect of any excess rent paid before the 1st day of August, 1985 in respect of any rental unit for which the actual rent has been set out in the statement.

Rebate
ordered
where
statement
filed on time

(2) Where a landlord has not filed a statement under section 57 or has filed a statement later than the time permitted for filing, no amount shall be ordered under subsection 95 (2) for any excess rent paid more than six years before the filing date of a tenant's application under that subsection.

Rebate
ordered
where
statement
not filed or
filed late

67. Where a landlord fails to file a statement under section 57 in respect of a residential complex on or before the expiry of the three-month period following the time specified

Where
statement not
filed within
three months
of time for
filing

in that section for the filing of the statement, the Minister on his or her own motion may order that the collection by the landlord of any increase in the rent charged for any rental unit in the residential complex be stayed until the landlord has filed the required statement.

Where no
statement
filed

68. On or after the first day of the month that falls not sooner than ninety days after the day determined under clause 57 (1) (a), no application made by a landlord or appeal by the landlord therefrom under this Act shall be proceeded with by the Minister or the Board if the landlord has not filed a statement under section 57 in respect of the residential complex concerned, whether or not the time for filing the statement has expired.

Register
to be kept
current

69. The Minister shall keep current the information recorded in the rent registry by incorporating, where applicable,

- (a) an order made under this Act;
- (b) an order made under the *Residential Tenancies Act*;
- (c) a statutory increase permitted to be taken under this Act;
- (d) a statutory increase that was permitted under Part XI of the *Residential Tenancies Act*;
- (e) a notice given under subsection 92 (2);
- (f) a written approval of the Minister given under subsection 91 (6); and
- (g) any other relevant change in the information recorded in the rent registry.

R.S.O. 1980,
c. 452

PART VI

RENT REGULATION

Twelve-
month
period
between rent
increases

70. The rent charged for a rental unit shall not be increased unless a period of at least twelve months has elapsed since the date of the last rent increase.

Maximum
increase
without
application

71.—(1) Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit,

- (a) to take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987, by more than 4 per cent; and
- (b) to take effect on or after the 1st day of January, 1987, and to take effect on or after the 1st day of January in any subsequent year, by more than the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A hereto.

of the last rent that was charged for the rental unit for an equivalent rental period.

(2) The Minister shall calculate the Residential Complex Cost Index that is applicable for each year and shall publish the Index in *The Ontario Gazette* not later than the 31st day of August of the immediately preceding year.

Calculation and publication of Index by Minister

(3) Notwithstanding subsection (2), in respect of the Residential Complex Cost Index applicable for the year 1987, the Minister shall calculate and publish the Index in *The Ontario Gazette* not later than thirty days after the day this subsection comes into force.

RCCI for 1987

(4) A landlord may increase the rent charged for a rental unit by more than the amount permitted by clause (1) (a) or (b) without making an application under this Act, provided that the amount of the rent after the increase is applied is not higher than the maximum rent as of the date the rent increase takes effect.

Maximum rent

72. A landlord may make an application under this Part despite the fact that the landlord may not have, in respect of any rental unit, given notice under section 5 (notice of rent increase), but nothing in this section relieves the landlord from compliance with section 5.

Landlord may apply although notice of rent increase not yet given

73.—(1) This section applies only to rental units that, before the repeal of clauses 134 (1) (c) and (d) of the *Residential Tenancies Act* by section 126 of this Act, were exempt from Part XI of that Act.

Application R.S.O. 1980, c. 452

(2) Where a notice of rent increase to increase the rent charged for a rental unit by more than the increase permitted by clause 71 (1) (a) or (b), whichever is applicable, has been given before this section comes into force, to take effect on or after the 1st day of August, 1985, where the landlord makes an application permitted under clause (3) (b), the rent

Notice for rent increase of more than amount permitted under s. 71 (1) (a) (b)

increase specified in the notice may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

Landlord to
repay excess
rent or bring
application
under s. 74

(3) A landlord who has increased the rent charged for a rental unit by more than the increase permitted by clause 71 (1) (a) or (b), whichever is applicable effective on or after the 1st day of August, 1985, pursuant to a notice of rent increase given before this section comes into force, shall, on or before the sixtieth day after the coming into force of this section,

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of the increase permitted by clause 71 (1) (a) or (b), whichever is applicable; or
- (b) apply to the Minister under section 74 (whole building review) even though the time for making such an application set out in subsection 74 (3) has expired.

Where
landlord
fails to
comply
with cl.
(3) (a)
or (b)

(4) Where a landlord fails to comply with clause (3) (a) or (b), the tenant may,

- (a) deduct the amount of the rent paid by the tenant that is in excess of the increase permitted by clause 71 (1) (a) or (b), whichever is applicable from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Minister under subsection 95 (2).

Application
by landlord

74.—(1) Where a landlord desires to increase the rent that may be charged for a rental unit by more than the amount permitted by section 71, the landlord may apply to the Minister in the prescribed form for an order permitting the landlord to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

Whole
building
review

(2) When the landlord applies to the Minister under subsection (1), the landlord shall, as part of the same application, apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

(3) An application made under this section shall be made not later than ninety days before the effective date of the first intended rent increase.

Time for making application

(4) At the time the application is filed, the landlord shall file with the Minister a cost revenue statement in the prescribed form together with all documents that the landlord relies upon in support of the application and such other material as may be prescribed.

Filing of cost revenue statement

(5) Any tenant affected by the application may submit material and make representations in respect thereto not later than forty days before the effective date of the first rent increase applied for and where a tenant does so the landlord may submit material and make representations in response thereto not later than forty days before the effective date of the first rent increase applied for or twenty days from the date of the tenant's submission, whichever is the later.

Submission of material and making of representations

(6) Where the Minister extends the date for filing under subsections (3) and (4) or the date for submitting material and making representations under subsection (5), the Minister shall notify each of the parties affected by the application of the extended date and any party shall be permitted up to forty days before the effective date of the first rent increase applied for or twenty days from the extended date, whichever is the later, to submit material and make representations in respect of the application.

Extension of time

75. Where an application is made by a landlord to the Minister under section 74, the Minister shall determine the total rent increase for the residential complex that is justified by,

Determination by Minister of total rent increase

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning financing costs, capital expenditures and extraordinary operating costs that the landlord has experienced or will experience in respect of the residential complex;
- (c) the degree to which actual financing costs or capital expenditures vary from the projected amounts allowed in respect of such costs or expenditures in a previous order made under this Act or the *Residential Tenancies Act*;

R.S.O. 1980
c. 452

- (d) the prescribed allowances for management and administration in respect of capital expenditures;
- (e) the findings of the Minister concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;
- (f) the findings of the Minister concerning a change in the services and facilities provided or in the standard of maintenance and repair in respect of the residential complex or any rental unit located therein;
- (g) in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the rate of return that is applicable to the residential complex in order to eliminate an economic loss;
- (h) the findings of the Minister concerning financing costs no longer borne by the landlord and which were allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*, where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985;
- (i) in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, the extent to which the rent for the residential complex is a chronically depressed rent within the meaning of section 91; and
- (j) the findings of the Minister concerning matters prescribed.

R.S.O. 1980,
c. 452


Where
grounds for
increase
financing
costs,
financial loss,
economic loss
or do not
include
capital
expenditures

76.—(1) Where, on an application made by a landlord under section 74, it is found by the Minister that the grounds that justify an increase in rent by more than the amount permitted by section 71,

- (a) are only one or more of the financing costs, financial loss or economic loss; or
- (b) do not include any amount for capital expenditures,

that the landlord has experienced or will experience in respect of the residential complex, the Minister shall apply the percentage determined under clause 71 (1) (a) or (b) whichever is

applicable, instead of the operating cost allowance determined under clause 75 (a).

(2) Notwithstanding subsection (1), where on an application made by a landlord under section 74, a capital expenditure is found by the Minister to be of a continuing nature within the meaning of the regulations made under this Act, the Minister, in respect of any subsequent application made by the landlord under section 74 in which the capital expenditure is found to be continuing, shall apply the percentage determined under clause 71 (1) (a) or (b) whichever is applicable, instead of the operating cost allowance determined under clause 75 (a). 

Continuing
capital
expenditure

77.—(1) Where a landlord claims to have experienced a financial loss or an economic loss or where the landlord may be entitled to an allowance for relief of hardship or an allowance in respect of chronically depressed rent, the landlord shall submit proof of the actual operating costs that the landlord has experienced in respect of the residential complex.

Proof of
operating
costs

(2) Notwithstanding subsection (1), where, for the purposes of a prior order made under subsection 83 (1) of this Act or under subsection 131 (5) of the *Residential Tenancies Act*, the operating costs experienced in respect of the residential complex have been determined, and where the effective date of the first rent increase set out in that order is not more than three years prior to the effective date of the first rent increase applied for by the landlord in the current application, the landlord may elect not to submit proof of the operating costs that the landlord has experienced in respect of the residential complex.

Election by
landlord

R.S.O. 1980,
c. 452

(3) Where the landlord makes an election under subsection (2), the operating costs shall be determined by reference to the amounts determined for the purposes of the prior order referred to in subsection (2), increased in the prescribed manner.

Determi-
nation
of operating
costs where
election
made

78.—(1) In making findings concerning capital expenditures under clause 75 (b) or under clause 87 (1) (b), the Minister shall,

Allowance
of interest,
etc

(a) allow interest on the expenditure, whether financed by borrowing or out of the landlord's own funds, or by a combination thereof, at the prescribed rates;



(b) when the expenditure is financed by borrowing, allow the value of any guarantees given by or on behalf of the landlord to the lender; and

- (c) allow the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure. ▲

Reduction
for capital
expenditures
previously
allowed
R.S.O. 1980,
c. 452

(2) Where, in an application under section 74 or 86, the landlord claims a capital expenditure for the replacement of an item allowed as a capital expenditure in a previous order made under this Act or the *Residential Tenancies Act*, and where the capital expenditure allowed in the previous order was completed on or after the 1st day of August, 1985, the Minister shall reduce the total rent increase that would otherwise be justified in the application by the amount allowed in respect of the capital expenditure in the previous order.

Limitation on
consideration
of financing
costs

79.—(1) In making findings concerning financing costs under clause 75 (b), the Minister shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord. ▼

Relief of
hardship

(2) Where an application is made by a landlord under section 74, if the revenue found in respect of the residential complex does not exceed the actual operating and financing costs by at least 2 per cent, the Minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the revenue to not more than 2 per cent above those costs. ▲

Limit on rent
increase
attributable
to
increased
financing
costs
resulting
from
purchase of
residential
complex

(3) Where a landlord claims a financial loss arising out of an increase in the financing costs of the residential complex resulting from a purchase or purchases of the residential complex, the Minister, when determining the total rent increase for the residential complex, shall allow in the initial year (as the component of the total increase in rent determined by the Minister that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex and in subsequent years the amount allowed in respect thereof by the Minister in any such year shall not exceed 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Definition

(4) For the purposes of subsections (1), (3) and (6), "purchase" means the acquisition of a residential complex, after the 31st day of December, 1979, by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in any agreement to purchase a residential complex.

➡ (5) Where the Minister allows a financial loss arising out of the circumstances set out in subsections (1) and (3), the Minister shall not allow the additional revenue mentioned in subsection (2) except in the last year during which the financial loss is phased in, but then only where the amount attributable to the financial loss together with the amount allowed under subsection (2) does not exceed 5 per cent of the last lawful rents that were charged for the residential complex. ▲

Limitation
on relief of
hardship
allowance

(6) Subsections (3) and (5) do not apply to the purchase of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, where,

Where
subss. (3, 5)
do not apply

- (a) the purchase was from the original owner of the residential complex and the residential complex was constructed for the purpose of such a purchase; or
- (b) the building permit to construct the residential complex was issued on or before the 18th day of April, 1986, and the agreement to purchase was entered into on or before the 18th day of April, 1986.

➡ (7) In making findings concerning financial loss under clause 75 (e), the Minister shall allow interest paid after the 1st day of August, 1985, at the prescribed rates on loans in respect of any financial loss incurred since the acquisition of the residential complex by the landlord, provided that where the financial loss arises out of an increase in financing costs resulting from a purchase or purchases or refinancing thereof in respect of the residential complex, the maximum allowed financing shall not exceed 85 per cent of the acquisition cost and only that portion of the interest paid on loans attributable to the maximum allowed financing shall be allowed. ▲

Interest

80.—(1) The rate of return in respect of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, and the building permit for the construction of which is issued,

Rate of
return

- (a) on or before the 31st day of December, 1986, is 10 per cent; or
- (b) after the 31st day of December, 1986, is the three-year moving average, as of the year in which the building permit is issued, of the Canada Bond rate for ten years and over plus 1 percentage point,

of the landlord's initial invested equity, including the principal portion of any debt not otherwise allowed, up to the amount

of the acquisition costs of the residential complex, and capitalized financial losses.

Phase in
of economic
loss and
financial
loss

(2) Where a landlord claims an economic loss in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the Minister shall allow in the initial and any subsequent year, as the amount attributable towards the elimination of financial loss and economic loss,

↓
(a) in respect of a residential complex, the permit for the construction of which was issued on or before the 1st day of July, 1986, the greatest of,

(i) the amount required to eliminate the economic loss over a period of five years from the earliest effective date of rent increase set out in the first order made on an application under section 74,

(ii) 5 per cent of the gross potential rent for the preceding year or the total of the amount required to eliminate the economic loss, whichever is less, and

(iii) the amount required to eliminate the financial loss experienced in the preceding year; and

↑
(b) in respect of a residential complex, the permit for which was issued after the 1st day of July, 1986, the lesser of,

(i) the total of the amount required to eliminate the economic loss and the financial loss together with the amounts otherwise justified in the application under section 74, and

(ii) the portion of that amount that will result in a maximum rent increase that does not exceed the highest of,

(A) the amount required to eliminate the financial loss experienced in the preceding year,

(B) 10 per cent of the gross potential rent for the preceding year, and

(C) an amount that is three times the increase permitted under subsection 71 (1).

81. In making findings under clause 75 (h), the Minister shall consider a financing cost which is no longer borne only to the extent of the amount that was previously allowed in respect of that financing cost.

Extent of consideration of financing cost no longer borne

82.—(1) In apportioning the total rent increase amongst the rental units in the residential complex, the Minister may take into account the following matters:

Apportionment of total rent increase

1. The rent schedule proposed by the landlord's application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
3. The degree to which any capital expenditures the landlord has experienced or will experience in respect of the residential complex affect individual rental units in the residential complex.
4. Any other prescribed matter.

(2) In apportioning the total rent increase under subsection (1), the Minister may set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complex but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that rental unit in the twelve-month period immediately preceding the date of the rent increase.

Equalization of rents

(3) In setting the maximum rents to achieve equalization under subsection (2), the Minister may set a maximum rent for a rental unit that is less than the rent currently being charged for that rental unit.

Maximum rent set lower than current rent

83.—(1) Where the Minister has determined and apportioned the total rent increase on an application made under section 74,

Order re maximum rent chargeable for each unit

- (a) the Minister shall order the maximum rent that may be charged for each rental unit in the residential complex that is under review and the earliest date that each may take effect; and

- (b) the Minister may order that the landlord or tenant pay to the other any sum of money that is owed to the other by reason of the order of the Minister setting the maximum rent for a rental unit.

Minister may
order
increase
less than
statutory
increase

(2) Where a landlord has applied for a rent increase greater than the amount permitted by section 71, the Minister may, if his or her findings so justify, allow a rent increase of less than the amount permitted by section 71.

Where rent
charged
exceeds
maximum
rent

(3) In any application under section 74, where the Minister finds that the rent being charged for any rental unit exceeds the maximum rent for that rental unit, the Minister shall apply any rent increase that is otherwise justified, not to the rent currently being charged for the rental unit, but to the maximum rent for that rental unit.

Time for
making order

(4) Subject to subsection (5), the Minister shall make an order in respect of any application under this section not later than fifteen days before the effective date of the first rent increase applied for in the application.

Extension
of time
for making
order

(5) Where it is not possible in the circumstances for the Minister to make an order in respect of any application within the time set out in subsection (4), the Minister shall notify in writing the parties to the application of the reason why it is not possible and of the date on or before which the order will be made.

Application
by landlord
for
equalization
of rents

84.—(1) Without bringing an application under section 74, a landlord may make an application in the prescribed form to the Minister for an order apportioning the total rent charged in respect of a residential complex amongst the rental units situate therein, for the purpose of varying the rents so as to achieve equalization of rents charged for similar rental units within the residential complex.

Time for
making
application

(2) An application under subsection (1) shall be made at least ninety days before the effective date of the first intended variation in rent as set out in the application.

Apportioning
of rents
charged
to achieve
equalization

(3) Where the Minister is satisfied in an application made under this section that the rents ought to be equalized, the Minister shall set the rent that may be charged for any rental unit so that the landlord may achieve equalization of the rents charged for similar rental units within the residential complex, but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that

rental unit in the twelve-month period immediately preceding the date or dates of the rent increase.

(4) In setting the rents to achieve equalization under subsection (3), the Minister may set a rent that may be charged for a rental unit at an amount that is less than the rent currently being charged for that rental unit.

Rent set
lower than
current
rent

(5) Where the Minister has determined and apportioned the rent charged amongst the rental units in the residential complex, the Minister shall order the percentage, if any, by which the rent charged for a rental unit may be varied from the amount that would otherwise be the maximum rent for that rental unit and the date or dates on which such variation may take effect.

Order re-
variation in
rents to
achieve
equalization

85.—(1) Within two years of the effective date of the first rent increase set out in an order made under subsection 83 (1), a landlord or a tenant may apply in the prescribed form to the Minister for an adjustment to the financial loss or economic loss allowed in the order or to the extraordinary operating costs allowed in the order, on the basis that the operating costs used in the calculation of the financial loss, economic loss or extraordinary operating costs were substantially higher or lower than the operating costs actually experienced in respect of the residential complex in a subsequent year.

Application
for
adjustment
to financial
loss,
economic
loss or
extraordinary
operating
costs allowed
there

(2) In an order made by the Minister on an application under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit in the residential complex that is under review and the earliest date that each may take effect, provided that the earliest such date is not earlier than the day the application was made.

Order re-
maximum
rent
chargeable
for
each unit

86.—(1) Where a landlord desires to increase the rent that may be charged for one or more rental units in a residential complex by more than the amount permitted by section 71 because of capital expenditures the landlord has experienced or will experience in respect of such rental units, the landlord and the tenants of such rental units may jointly apply in the prescribed form to the Minister at least sixty days before the effective date of the first intended rent increase for an order permitting the landlord to do so.

Part
building
review

(2) Where the residential complex contains more than twelve rental units an application under subsection (1) shall not include the tenants of more than 25 per cent of the rental units in the residential complex.

Application
limited to
25 per cent
of rental
units

Filing of
capital cost
revenue
statement

(3) The landlord and the tenants shall file with the Minister a capital cost revenue statement in the prescribed form together with all documents that the parties rely upon in support of the application, including any written representations, and such other materials as may be prescribed not later than forty days before the effective date of the first rent increase applied for.

Determi-
nation
by Minister
of rent
increase for
each unit

87.—(1) Where an application is made by a landlord and one or more tenants under section 86, the Minister shall determine the rent increase for each rental unit which is subject to the application that is justified by,

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning capital expenditures that the landlord has experienced or will experience that affect each rental unit;
- (c) the prescribed allowances for management and administration in respect of capital expenditures; and
- (d) the findings of the Minister concerning matters prescribed.

Order re
maximum
rent
chargeable
for each
unit

(2) Where the Minister has determined the rent increase for each rental unit under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit under review and the earliest date that each may take effect.

Application
for
conditional
determination
respecting
rate of return

88.—(1) At any time before the first rental unit in a residential complex is occupied, a landlord may make an application in the prescribed form to the Minister for an order determining the treatment any proposed course of action that may affect the rate of return for the residential complex will receive on a subsequent application under section 74, and the Minister shall, by order, make any determination the Minister considers appropriate.

Subsequent
application
required

(2) An order under subsection (1) is conditional on the landlord making a subsequent application in the prescribed form to the Minister to review the order in the light of the actual course of action taken by the landlord in relation to the matters determined.

➡ (3) An application under subsection (2) shall be made not later than twelve months after the day the first rental unit is occupied.

Time for making subsequent application
➡

(4) In an order made on an application under subsection (2), the Minister may vary or confirm the order made under subsection (1).

Variance or confirmation of conditional determination

(5) A determination in an order made under subsection (1) has no force or effect except as varied or confirmed by an order made on an application under subsection (2).

Effect of conditional determination

89.—(1) Prior to making a capital expenditure in respect of a residential complex or any rental unit therein, the landlord may, or the landlord and the tenants of the rental units concerned jointly may, apply in the prescribed form to the Minister for a conditional order under subsection (2).

Application for conditional order

(2) In an application under subsection (1), the Minister shall consider the proposed capital expenditure and shall by order declare the amount that will be allowed in respect of the expenditure in a subsequent application made under subsection 74 (1) (whole building review) or subsection 86 (1) (part building review), and where on the subsequent application the actual expenditure is substantially higher or lower than the projected expenditure the amounts allowed shall be decreased or increased proportionately.

Order by Minister

90. An order of the Minister on an application made under this Part may award a rent increase greater than that requested in the application and where the order does so, the maximum rent for each rental unit affected by the order will be established in accordance with the terms of the order, but the rent charged for any such rental unit during the twelve-month period following the effective date of the rent increase set out in the order shall not exceed the amount that would have been established for that rental unit had the rent increase requested in the application been awarded.

Where greater rent increase awarded than applied for

91.—(1) In this section, "chronically depressed rent" means the gross potential rent for a residential complex where,

Definition

- (a) the rent is more than 20 per cent below the gross potential rent for residential complexes that are comparable to the residential complex, in terms of number and type of rental units, quality and location; and

- (b) the rate of return on the landlord's equity in respect of the residential complex is less than 10 per cent.

Allowance re
chronically
depressed
rent

↓
(2) In an application made under section 74 not later than two years after the day this section comes into force in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, where,

- (a) the landlord has owned the residential complex throughout the period from the 1st day of November, 1982, to the day the application is made; or
- (b) the landlord has acquired the residential complex by inheritance or through foreclosure proceedings from a previous landlord who had owned the residential complex throughout the period from the 1st day of November, 1982 to the date of its acquisition by the present landlord who in turn has owned it until the day the application is made,

and the Minister finds the gross potential rent is a chronically depressed rent, the Minister shall allow, in an order made under subsection 83 (1), an additional 2 per cent per year of the gross potential rent until the rent is no longer a chronically depressed rent.

Request for
relief

(3) Where the Minister makes an order that provides for the allowance referred to in subsection (2), any tenant of a rental unit in the residential complex may make a request in the prescribed form to the Minister for relief from payment of the allowance.

Agreement
providing for
payment by
Minister to
landlord of
allowance

(4) If the Minister determines that the tenant making the request meets the prescribed criteria for relief, the Minister shall inform the landlord, who shall thereupon enter into an agreement containing the prescribed terms with the Minister that will provide for payment by the Minister to the landlord of that portion of the maximum rent for the affected rental unit that is attributable to the allowance referred to in subsection (2).

Where
landlord fails
to enter into
agreement

(5) If the landlord fails to enter into the agreement referred to in subsection (4), the Minister shall order that the portion of the allowance referred to in subsection (2) that affects the maximum rent of the rental unit shall not be charged by the landlord and may provide in the order that the landlord repay to the tenant any amount that is owing to the tenant by reason of the order.

▲

(6) Where a rental unit in a residential complex whose gross potential rent is found to be a chronically depressed rent under subsection (2) becomes occupied by a new tenant or where an existing tenant of the rental unit agrees in writing thereto, the landlord, with the written approval of the Minister and without making an application under section 74 but subject to section 70, may increase the rent charged for that rental unit to the amount the rent would be for that rental unit at the time the gross potential rent for the residential complex has reached the level at which it is no longer a chronically depressed rent.

Where new tenant or existing tenant consents

(7) Where on the application in the prescribed form of a tenant or on the Minister's own motion the Minister finds a significant deterioration in the standard of maintenance and repair in respect of the rental unit or the residential complex in which it is situate has occurred after the date of the order mentioned in subsection (2), the Minister may order that the landlord no longer charge the allowance referred to in subsection (2) or any part thereof, or the increase in rent charged for a rental unit pursuant to subsection (6), and may declare the maximum rent that may be charged for the rental unit or units affected.

Deterioration in standard of maintenance and repair

(8) An application or motion under subsection (7) may not be made after the expiry of twelve months from the date that the rent for the rental unit is no longer chronically depressed.

Time for making application

92.—(1) An order made under this Part may provide for the phasing in over more than one year, in the prescribed manner, of any amount that is included (as a component of the total permitted rent increase) for the purpose of,

Phasing in of certain amounts that are components of total rent increase

- (a) eliminating a financial loss or an economic loss the landlord has experienced or will experience;
- (b) achieving equalization of rents charged for rental units within a residential complex;
- (c) raising the gross potential rent for a residential complex to the level where the rent is no longer a chronically depressed rent within the meaning of section 91;
- (d) relieving the landlord from hardship under subsection 79 (2) or (5); or
- (e) recovering financing cost increases that are subject to phasing in under the prescribed rules.

and where provision is made for such phasing in, the Minister shall specify in the order the phased in amount for the initial year and the method of calculating the amount for any subsequent year or years in which the phased in amount is applicable.

Notice by
Minister to
landlord and
entry in rent
registry

(2) The Minister shall calculate the phased in amount that is applicable in any year subsequent to the initial year and, not later than 120 days before the anniversary of the date of the first rent increase set out in the order, shall give notice in writing of the amount to the landlord who is affected and shall enter the phased in amount that is applicable for the year in the information recorded in the rent registry in respect of any rental unit that is affected thereby.

Notice to
tenant

(3) The landlord shall include with a notice of rent increase given under section 5 any notice the landlord has received under subsection (2) that affects the amount of the rent increase set out in the notice given under section 5.

Increasing
rent by
phased in
amount

(4) In addition to the amount by which, under section 71, the landlord could increase the rent charged, the landlord may, without making an application under this Act, increase the rent for a rental unit by the phased in amount set out in the notice given under subsection (2) respecting that rental unit.

Decrease in
financing
costs

R.S.O. 1980,
c. 452

23.—(1) Where a landlord has been awarded a rent increase under this Act or the *Residential Tenancies Act* that was justified, in whole or in part, by a rate increase in financing costs that took effect on or after the 1st day of August, 1985, if at the time the term of the mortgage or other instrument associated with the financing costs expires or is about to expire the Minister is of the opinion that the rate of interest required to be paid on a renewal or replacement of the mortgage or other instrument is lower by 1 per cent or more than the interest rate that justified the rent increase that was awarded, the Minister shall give notice thereof in writing to the landlord and the tenants of the residential complex that is affected.

Landlord to
file
documents
with Minister

(2) Not later than thirty days after the receipt of a notice under subsection (1), the landlord shall file with the Minister all documents that are relevant to the financing costs that the landlord will experience following the expiry of the term of the mortgage or other instrument.

Order that
maximum
rent be not
increased

(3) Unless the landlord makes an application under section 74 within the time set out therein, the Minister may, on the Minister's own motion, determine the amount of rent increase

that is no longer justified by reason of the lower interest rate and may order that the maximum rent chargeable for each rental unit in the residential complex as of the date of the order be not increased for a period of time determined in the prescribed manner.

(4) In making the determination under subsection (3) of the amount of increase that is no longer justified, the Minister shall take into account only the matters in respect of which the Minister may make findings under clause 75 (h).

Matters to be considered by Minister

94.—(1) A tenant who desires to dispute an intended rent increase for his or her rental unit that does not exceed the amount that the landlord is permitted to charge under section 71 may make an application in the prescribed form to the Minister for an order requiring the landlord to reduce the amount of the rent increase.

Application by tenant disputing intended rent increase

(2) Where the intended rent increase includes a phased in amount under the authority of section 92 in addition to the amount the landlord is permitted to charge under section 71, the tenant may dispute in accordance with this section that portion of the intended rent increase that is composed of the amount the landlord is permitted to charge under section 71.

Where phased in amount added to statutory increase

(3) No rent increase shall be reduced under this section when the rent increase results in a rent not exceeding the maximum permitted by an order by the Minister or the Board or by the Residential Tenancy Commission under the *Residential Tenancies Act*, for the applicable rental unit.

Exception

R.S.O. 1980, c. 452

(4) An application under this section shall be made not later than sixty days before the effective date of the intended rent increase.

Time for application

(5) Where an application is made by a tenant under this section, in determining a rent increase for the rental unit, the Minister shall consider only the following matters:

Considerations where tenant applies

1. Variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex.
2. A change shown to have occurred in the standard of maintenance and repair or in the services and facilities provided that affects the rental unit.
3. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board.

Order setting
maximum
rent
chargeable
for the unit

(6) Where the Minister has made a determination on the application,

- (a) the Minister shall make an order setting the maximum rent that may be charged for the rental unit under review and the twelve-month period during which that maximum rent shall be in effect; and
- (b) the Minister may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Minister setting the maximum rent for the rental unit.

Application
by landlord
for
equalization
of rents

(7) Where a tenant makes an application under subsection (1) on the grounds set out in paragraph 1 of subsection (5), the landlord may, not later than thirty days from the day the tenant's application was filed, make an application to the Minister under subsection 84 (1).

First date
of intended
variation

(8) Notwithstanding subsection 84 (2), the first date of intended variation in rent in a landlord application under subsection 84 (1) as provided in subsection (7) shall be the effective date of the rent increase disputed by the tenant in the application under subsection (1).

Tenant not
liable to pay
illegal rent
increase

95.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Act.

Remedy

(2) Where, on the application in the prescribed form of a tenant, the Minister determines that the landlord has charged the tenant an amount of rent that is in excess of that permitted by this Act or Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, the Minister,

- (a) shall by order declare the maximum rent that may be charged for the rental unit concerned and the earliest date the maximum rent may take effect; and
- (b) where any excess rent paid by the tenant to the landlord is owed by the landlord to the tenant, shall, subject to subsection 13 (4), order the landlord to pay the excess rent owing to the tenant.

Where excess
rent not to
be repaid

(3) Notwithstanding subsection (2), the Minister shall not make an order for the payment of excess rent charged for a rental unit prior to the 1st day of August, 1985, where the sum of the excess rent and the lawful rent for the rental unit does not exceed the rent that could have been charged for the rental unit in the period when the excess rent was paid, if, to

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

the amount charged for the rental unit on the 29th day of July, 1975, or at the earliest time thereafter for which the rent charged is known, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and Part XI of the *Residential Tenancies Act*.

1975
(2nd Sess.),
c. 12
R.S.O. 1980,
c. 452

26. Where a landlord makes an application under section 74, 86 or 89, the Minister may refuse to recognize all or part of the capital expenditures or proposed capital expenditures claimed by the landlord where in the opinion of the Minister such expenditures are substantial and became necessary as a result of the landlord's ongoing deliberate neglect in maintaining the residential complex or any rental unit therein.

Consequences
of neglect in
maintaining
residential
complex or
rental unit

27.—(1) In this section,

Definitions

"basic unit rent" means the amount of rent charged for a rental unit exclusive of any separate charges;

"separate charges" means the amounts of rent charged separately for any service, facility, privilege, accommodation or thing that the landlord provides for the tenant in respect of the tenant's occupancy of the rental unit.

(2) In any order under this Act in which the Minister sets out or declares the maximum rent that may be charged for a rental unit, the Minister may separately set out or declare the maximum basic unit rent and the maximum separate charges.

Minister may
set out or
declare basic
unit rent and
separate
charges

(3) Notwithstanding subsection 82 (2) or 84 (3), an order of the Minister made under subsection 83 (1) or 84 (5) may provide for the immediate equalization of separate charges for parking spaces or other separate charges as may be prescribed.

Immediate
equalization
of separate
charges

(4) Notwithstanding anything in this Act, where a landlord and tenant agree that the landlord will provide any additional, or discontinue the provision of any, parking spaces, or any other service, facility, privilege, accommodation or thing as may be prescribed, in respect of the tenant's occupancy of a rental unit, the maximum rent which may be charged for the rental unit shall be increased or decreased in the prescribed manner.

Adding or
discontinuing
services,
facilities, etc.

(5) Where the Minister by order under subsection 13 (3) determines that an agreement under subsection (4) has been entered into as a result of some form of coercion, the agreement is not enforceable.

Coerced
agreement
not
enforceable

Not increase
for purposes
of s. 70


(6) An increase in rent charged in accordance with this section does not constitute an increase in rent charged for the purposes of section 70.

Where rental
unit not
rented for
some time
again
becomes
rented

98. Where a rental unit that has been rented at any time on or after the 29th day of July, 1975, has subsequently been not rented for any period of time and then again becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during the period it was not rented and the landlord had given notice or notices of rent increase in the amount permitted by this Act, *The Residential Premises Rent Review Act, 1975 (2nd Session)* or Part XI of the *Residential Tenancies Act*.

1975
(2nd Sess.),
c. 12
R.S.O. 1980,
c. 452


Where rental
unit rented
for first time

99. The rent charged by a landlord for a rental unit when the unit is rented for the first time on or after the 29th day of July, 1975, shall be deemed to be the maximum rent for that unit as of the date it so becomes rented for the first time, except as otherwise provided in the regulations made under this Act. 

Additional
charges
prohibited

100.—(1) No landlord, or any person acting on behalf of the landlord shall, directly or indirectly, in respect of any rental unit,



- (a) collect or attempt to collect from a tenant or prospective tenant of the rental unit any fee, premium, commission, bonus, penalty, key deposit or other like amount of money; 
- (b) require or attempt to require a prospective tenant to pay any consideration for goods or services as a condition for granting the tenancy, in addition to the rent the tenant is lawfully required to pay to the landlord; or
- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord lawfully may charge for the rental unit.

Idem

(2) No tenant or any person acting on behalf of the tenant shall, directly or indirectly,

- (a) sublet a rental unit for a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;

- (b) sublet any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (c) collect or attempt to collect from any tenant or prospective tenant any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money, for subletting the rental unit or any portion thereof, for assigning a tenancy agreement for the rental unit or for otherwise parting with possession of the rental unit; or
- (d) require or attempt to require a prospective subtenant or assignee to pay any consideration for goods or services as a condition for the sublet or assignment in addition to the rent the subtenant or assignee is lawfully required to pay to the tenant or landlord.

PART VII

APPEALS

101.—(1) A landlord or a tenant directly affected by an order may, within thirty days of the giving of the order of the Minister, appeal any order of the Minister disposing of an application made under this Act, or an order made on the Minister's own motion, by filing a notice or notices of appeal in the prescribed form with the Board, together with any documents that the party appealing relies upon in support of the appeal and which were not filed with the Minister on the application.

Appeal from
order of
Minister

(2) The landlord and any tenant of a rental unit affected by an order made under section 87 or an order made pursuant to a joint application under section 89 may appeal the order jointly or individually.

Appeal of
part building
review order

(3) Where a notice of appeal is filed with the Board, a copy of the notice shall be given by the Board to the Minister who shall thereupon forward to the Board,

Record

- (a) the original or a true copy of the application or notice given under subsection 28 (1);
- (b) the original or a true copy of all documents and material filed in respect of the application or notice given under subsection 28 (1); and

- (c) a certified copy of the order appealed from together with the summary of reasons for the order.

Filing of documents, etc., by respondent

(4) Where any person has filed a notice of appeal, the other parties to the appeal shall, within thirty days of the filing of the notice of appeal, file with the Board the documents that the parties intend to rely upon at the hearing of the appeal and which were not filed with the Minister on the application or in response to a notice given under subsection 28 (1).

Notice to parties

(5) After receiving a notice of appeal under subsection (1), the Board shall give a notice to the parties stating the date, place and time when the appeal will be heard.

Issues may be heard together

(6) Where several different appeals have been made to the Board, and the Board is of the opinion that it would be appropriate to determine the issues raised by the appeals together, the Board may hear and determine the issues in dispute at a common hearing.

Issues may be heard separately

(7) Where the Board is of the opinion that it would be appropriate to deal with some of the issues raised by an appeal at separate hearings, the Board may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues.

Issues on appeal limited

102.—(1) On the hearing of an appeal, the issues will be limited to those raised in the initial application, or raised in a matter brought on by the Minister's own motion, unless the Board otherwise allows.

Agreement to further limit issues

(2) Where all the parties to an appeal agree in writing, the Board may further limit the issues of the appeal to those issues agreed upon by the parties.

Evidence

(3) On the hearing of the appeal, the Board shall hear any evidence that is relevant to the issues, whether or not the evidence was tendered or was available on the initial application.

Burden of proof

(4) On the hearing of the appeal, the burden of proof lies on the party who made the initial application, or in the case of an appeal from an order made on the Minister's own motion, on the party bringing the appeal.

Hearing by single member

103.—(1) Subject to subsection (2), an appeal shall be heard by a single member of the Board.

Hearing by panel of three Board members

(2) The chairman shall assign a panel of three members of the Board to hear an appeal where any party to the appeal

files a request in the prescribed form with the Board not later than thirty days after the day the notice of appeal is filed.

➡ (3) Where, before the hearing of an appeal has commenced, a party to the appeal who has filed a request under subsection (2) files with the Board a withdrawal of the request in the prescribed form, the appeal may, with the consent of the Board, be heard by a single member of the Board. ➡

Withdrawal
of request
for panel
of three
members of
the Board

104.—(1) Where any party to an appeal files a request therefor in the prescribed form with the Board or where the Board on its own initiative decides to do so, the Board may direct the parties to attend a pre-hearing conference, to be conducted by a single member of the Board, to discuss,

Pre-hearing
conference

- (a) the issues to be dealt with on the hearing of the appeal;
- (b) whether any person ought to be added or removed as a party to the appeal;
- (c) the rental units affected by the appeal;
- (d) where a request has been filed under subsection 103 (2), whether the appeal should be heard by one member or a panel of three members of the Board; and
- (e) any procedural matter that arises or may arise in connection with the appeal.

➡ (2) The member of the Board who conducts the conference may make such written recommendations as he or she considers necessary or advisable arising out of the matters discussed at the conference and any such recommendations shall be placed on the Board's record file pertaining to the appeal.

Recommendations

(3) Any party to the appeal is entitled to examine the recommendations made under subsection (2) and may submit representations in respect thereof to the Board at the hearing of the appeal. ➡

Examination
of
recommendations

(4) The member of the Board who conducts the pre-hearing conference shall not hear the appeal or be a member of the panel that hears the appeal.

Board
member not
to
hear appeal

(5) Notwithstanding subsection 105 (1), the *Statutory Powers Procedure Act* does not apply to a pre-hearing conference held under this section.

R.S.O. 1980,
c. 484 not
to apply

Application
of
R.S.O. 1980,
c. 484

105.—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Board in the exercise of a statutory power of decision.

Deemed
compliance

(2) The giving to a party of a copy of a notice of appeal to the Board shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Procedure

106.—(1) Subject to the provisions of the *Statutory Powers Procedure Act*, and except as otherwise provided for by this Act, the Board may determine its own procedure for the conduct of hearings.

Policy
guidelines,
etc.,
available to
public

(2) All policy guidelines or rules of procedure made by the Board under subsection (1) for the conduct of hearings shall be made available for examination by the public.

Matters
Board
to consider

107.—(1) In addition to any material, evidence or information submitted to the Board on an appeal, in hearing any appeal, the Board may consider,

- (a) any matter the Minister was entitled to consider on the application;
- (b) any material and documents submitted to the Minister on the application; and
- (c) such other matters as it deems necessary or advisable for the purpose of dealing with the appeal.

Board may
investigate,
etc.

(2) The Board, in respect of any appeal, may,

- (a) conduct any enquiry or inspection of documents or premises that the Board considers necessary; and
- (b) question any person by telephone or otherwise.

Additional
material

108.—(1) The Board may direct any party to the appeal to file such additional material as the Board considers necessary and the other parties shall have an opportunity to examine the additional material and to explain or refute it.

Where
additional
material
not filed

(2) Where any party to the appeal fails to comply with a direction of the Board under subsection (1), the Board may,

- (a) in the case of the appellant, refuse to make an order allowing the appeal or that part of the appeal relating to the failure to comply with the direction; and

- (b) in the case of any other party to the appeal, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

109. At the hearing, the Board may question the parties who are in attendance and any witnesses with a view to determining the truth concerning the matters in dispute.

Board may question parties, etc

110. In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Other relevant information

111. Upon completion of a hearing, the Board shall by order,

Order of Board

- (a) affirm the order of the Minister;
- (b) vary the order of the Minister; or
- (c) substitute its own order for the order of the Minister,

and shall forthwith give a copy of the order to the parties to the appeal, together with reasons in writing for the order.

112. Where, within one year of the date of an order of the Board, the member, or panel of members, of the Board who made the order is of the opinion that a serious error has been made, the member or panel of members may, on the member's or panel's own motion, rehear any appeal and may affirm, rescind, amend or replace the order.

Power to rehear

113. An order of a Board member or an order of the majority of the members of a panel of Board members shall be deemed to be an order of the Board.

Order of member or majority of panel deemed order of Board

114. Where a member of a panel of Board members that is assigned to hear an appeal ceases for any reason to be a member of the Board,

Decisions by remaining members of panel of Board members

- (a) before the Board has made an order in respect of the appeal, the remaining two members of the panel may complete the hearing and make the order of the Board; or

- (b) after the Board has made an order in respect of the appeal, the remaining two members of the panel may, in the circumstances set out in section 112, decide to rehear the appeal and those two members, together with a third member appointed by the chairman may, after holding the rehearing, affirm, rescind, amend or replace the order,

but if the two members do not agree,

- (c) on the order to be made in the case mentioned in clause (a), the appeal shall be reheard before a new panel of Board members; or
- (d) on whether to rehear the appeal in the case mentioned in clause (b), a rehearing shall not be held.

Appeal to
Divisional
Court

115.—(1) Any party to an appeal under section 101 may, on a question of law, appeal an order of the Board to the Divisional Court.

Board
entitled to
be heard on
appeal

(2) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal under this section.

Power of
Divisional
Court on
appeal

(3) Where an appeal is brought under subsection (1), the Divisional Court shall hear and determine the appeal and may,

- (a) affirm, rescind, amend or replace the decision or order; or
- (b) remit the matter to the Board with the opinion of the Divisional Court,

and may make,

- (c) any other order in relation to the matter that it considers proper; and
- (d) any order, with respect to costs, that it considers proper.

Orders not
stayed
pending
appeal

116. An appeal from an order of the Minister or the Board does not stay the order pending the hearing of the appeal.

PART VIII

LICENSING OF RESIDENTIAL TENANCY CONSULTANTS

117.—(1) The Minister may grant upon payment of the prescribed fee a licence to every person whom the Minister, in accordance with the prescribed procedures and criteria, considers qualified to act as a residential tenancy consultant and in accordance with the prescribed procedures may refuse, suspend or revoke any such licence.

Licence as
residential
tenancy
consultant

(2) No person, for a fee, shall represent or appear as agent for a landlord or a tenant in any proceedings under this Act unless the person,

Licence
required

- (a) is licensed under this Part as a residential tenancy consultant; or
- (b) is exempted by the regulations from the requirement to be licensed under this Part.

(3) Any agreement that provides for the payment of a fee to a person, other than one who is licensed or exempt as mentioned in subsection (2), for representing or appearing as an agent for a landlord or a tenant in any proceedings under this Act is void.

Where
agreement to
pay void



PART IX





MISCELLANEOUS

118. The Lieutenant Governor in Council may make regulations,

Regulations

1. prescribing forms of applications to the Minister and material to be furnished in respect of the application;
2. prescribing the form of a notice of appeal to the Board;
3. prescribing procedural and interpretative rules and policies to be observed by the Minister and the Board in the interpretation and administration of this Act or when exercising any power or discretion conferred under this Act;
4. prescribing, for the purposes of clause 4 (3) (a), rental units to which this Act applies;

5. prescribing, for the purposes of section 5, the form of the notice of a rent increase;
6. prescribing, for the purposes of clause 13 (3) (d), matters of concern in respect of which the Minister may make a determination;
7. prescribing, for the purposes of subsection 21 (5), rules for the computation of time;
8. prescribing, the form of the notice mentioned in subsection 28 (1);
9. prescribing, for the purposes of subsection 33 (2), the form of a summary of reasons for an order of the Minister;
10. prescribing, for the purposes of section 53, fees for the furnishing of copies of forms, notices or documents;
11. prescribing, for the purposes of subsection 56 (1), the form of a request for information from the rent registry;
-  12. prescribing, for the purposes of subsection 56 (1), rules for limiting the information recorded in the rent registry that shall be furnished to any person on request; 
13. prescribing, for the purposes of subsection 56 (2), fees for the furnishing of information from the rent registry;
14. prescribing, for the purposes of subsection 57 (1), the form of the statement to be filed in connection with the rent registry;
15. prescribing, for the purposes of clause 57 (2) (a), the date for filing a statement under subsection 57 (1);
16. prescribing, for the purposes of subsection 58 (1), other information to be set out in the statement filed under subsection 57 (1);
17. prescribing the percentage mentioned in subsections 59 (2) and (3);

- 
18. prescribing, for the purposes of section 60, the form of notice to be given by the Minister in respect of information recorded in the rent registry;
19. prescribing, for the purposes of subsections 63 (4) and (5), the form of justification; 
20. prescribing, for the purposes of subsection 74 (4), the form of a cost revenue statement;
21. prescribing, for the purposes of clause 75 (a) and clause 87 (1) (a), the operating cost allowance;
22. prescribing, for the purposes of clause 75 (d) and clause 87 (1) (c), the allowances for management and administration in respect of capital expenditures;
23. prescribing, for the purposes of clause 75 (j), matters in respect of which the Minister may make findings;
24. prescribing, for the purposes of clause 78 (1) (a), interest rates on capital expenditures;
25. prescribing, for the purposes of subsection 79 (7), interest rates to be allowed;
26. prescribing, for the purposes of paragraph 4 of subsection 82 (1), matters to be taken into account by the Minister;
27. prescribing, for the purposes of subsection 86 (3), the form of a capital cost revenue statement;
- 
28. prescribing, for the purposes of subsection 91 (3), the form of a request for relief;
29. prescribing, for the purposes of subsection 91 (4), the criteria to be met to qualify for relief;
30. prescribing, for the purposes of subsection 91 (4), the terms of an agreement to be entered into under that subsection; 
31. prescribing, for the purposes of section 92, the manner of phasing in amounts;

32. prescribing, for the purposes of subsection 93 (3), the manner of determining the period of time the maximum rent chargeable may not be increased;
33. prescribing, for the purposes of subsection 97 (3), separate charges which may be equalized immediately;
34. prescribing, for the purposes of subsection 97 (4), the manner in which the rent may be increased or decreased;
35. prescribing, for the purposes of section 99, the method of determining maximum rent;
36. prescribing persons or classes of persons that are exempt from the requirement to be licensed under Part VIII;
37. prescribing, for the purposes of subsection 117 (1), criteria for licensing a person as a residential tenancy consultant;
38. prescribing, for the purposes of subsection 117 (1), fees for licences under Part VIII;
39. prescribing, for the purposes of subsection 117 (1), procedures to be followed where a licence is proposed to be refused, suspended or revoked;
40. prescribing, for the purposes of subsection 121 (1), the allowed amount of a contingency fee;
41. prescribing, for the purposes of constructing the Building Operating Cost Index, the Table setting out the weighting and components thereof;
42. defining any word or expression used in this Act that has not already been expressly defined in this Act;
43. prescribing anything that by this Act is to be or may be prescribed.

Substantial
compliance
with forms,
etc.,
sufficient

119. Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Minister or the Board, as the case may be, is of the opinion that it would result in unfairness to any person.

120. Any person may seek to secure and enforce the rights established by this Act and may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act.

Enforcement of rights and participation in organization

121.—(1) No agent who represents a landlord or a tenant in any proceedings under this Act or who assists a landlord or tenant in any matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved in part or in whole through the efforts of the agent, where the proportion exceeds the prescribed amount.

Contingency fee limited

(2) Any agreement which provides for a fee prohibited in subsection (1) is void.

Contingency agreement void

122.—(1) Any person who knowingly,

Offences

- (a) fails to obey an order of the Minister or the Board;
- (b) furnishes false or misleading information in any application, document, written representation or statement to the Minister under this Act or in any proceedings before the Board;
- (c) increases the rent charged for a rental unit where less than twelve months has elapsed since the date of the last rent increase;
- (d) increases the rent charged for a rental unit by more than the amount referred to in section 71 unless authorized by the Minister or the Board to do so;
- (e) charges a higher rent for a rental unit than that permitted under an order of the Minister or the Board;
- (f) charges an amount that is in contravention of section 100;
- (g) fails to file with the Minister the statement required under section 57, in respect of the rent registry; or
- (h) charges or takes a fee that is in contravention of subsection 121 (1),

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Where
corporation
convicted

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

Limitation

(3) Proceedings shall not be commenced, in respect of an offence under subsection (1), after one year after the date on which the offence was, or is alleged to have been, committed.

Monetary
sums
rounded
to nearest
dollar

123. Wherever under this Act a sum of money is required or permitted to be set out or expressed, the sum may be rounded to the nearest dollar and set out or expressed accordingly.

Proof of
documents,
etc.

124. In any prosecution for an offence under this Act, the production of any certificate, statement or document given to the Minister or to the Board under this Act or the regulations thereunder, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by such person or on such person's behalf, shall be received as *prima facie* proof that such certificate, statement or document was filed or delivered by or on behalf of that person or was made or signed by that person or on that person's behalf.

Moneys

125. The moneys required for administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

126.—(1) Clauses 134 (1) (c) and (d) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection (1) shall be deemed to have come into force on the 1st day of August, 1985.

127. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134 (1) (a), (b), (f) and (g), subsections 134 (2) and (3) and subsection 135 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

128. Section 7 of the *Residential Complexes Financing Costs Restraint Act*, 1982, as amended by the Statutes of Ontario, 1983, chapter 69, section 4, 1984, chapter 65, section 1 and 1985, chapter 15, section 4, is repealed and the following substituted therefor:

Repeal

7.—(1) This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

(2) Despite subsection (1), this Act continues in force for the purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential Tenancies Act* on or before the day immediately preceding the day on which this Act is repealed by proclamation of the Lieutenant Governor and not finally disposed of by the Commission on or before that day, and to appeals therefrom.

Saving

R.S.O. 1980,
c. 452

129.—(1) Notwithstanding the repeal of the provisions mentioned in section 127, those provisions shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters:

Certain
provisions
deemed
continued
in force for
certain
purposes

1. An application made under the *Residential Tenancies Act* before the day this section comes into force.
2. An appeal of an order made under the *Residential Tenancies Act*.
3. A court proceeding commenced before the day this section comes into force to which the Residential Tenancy Commission is a party.
4. A court proceeding mentioned in subsection 84 (4) of the *Residential Tenancies Act* commenced before the day this section comes into force.

R.S.O. 1980,
c. 452

(2) An application under the *Residential Tenancies Act* made before the day this section comes into force may, at any time before the hearing of the application has commenced, at the written election of the applicant, be continued and finally disposed of as an application made under the corresponding provisions of this Act.

Election to
proceed
under
this Act
R.S.O. 1980,
c. 452

(3) For the purposes only of subsection (1), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until the expiration of the term of appointment or a day to be named by proclamation of the Lieutenant Governor, whichever is earlier.

Residential
Tenancy
Commission
continued
for certain
purposes
R.S.O. 1980,
c. 452

Where
appeal may
be heard
before single
Appeal
Commis-
sioner

(4) Notwithstanding subsection 117 (7) of the *Residential Tenancies Act*, an appeal from an order made under subsection 129 (2) of that Act may be heard before a single Appeal Commissioner, who need not be a member of the Board of Commissioners.




Commence-
ment

130.—(1) This Act, except subsection 71 (1) and section 128, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 128 comes into force on the day this Act receives Royal Assent.

Idem

(3) Subsection 71 (1) shall be deemed to have come into force on the 1st day of August, 1985. 

Short title

131. The short title of this Act is the *Residential Rent Regulation Act, 1986*.

SCHEDULE A

(Clause 71 (1) (b))

The formula for calculating the Residential Complex Cost Index for the purposes of clause 71 (1) (b) is the greater of,

(a) 2 per cent; or

(b) 2 per cent plus $\frac{2}{3}$ of the percentage increase in the three-year moving average of the Building Operating Cost Index, rounded to the nearest $\frac{1}{10}$ th of 1 per cent.

The Building Operating Cost Index shall be constructed in accordance with the weighting and components set out in the prescribed Table, with the weighting adjusted annually in relation to changes, based on a three-year moving average, in the components.

SCHEDULE B

(Clauses 75 (a) and 87 (1) (a))

The formula for calculating the operating cost allowance for the purposes of clauses 75 (a) and 87 (1) (a) is,

Operating Cost Allowance = Residential Complex Cost Index less 1 percentage point X the gross potential rent for the residential complex for the month immediately preceding the effective date of the first rent increase applied for X 12.

Bill 51

*(Chapter 63
Statutes of Ontario, 1986)*

An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes

The Hon. A. Curling
Minister of Housing

<i>1st Reading</i>	June 5th, 1986
<i>2nd Reading</i>	July 7th, 1986
<i>3rd Reading</i>	December 3rd, 1986
<i>Royal Assent</i>	December 4th, 1986

Bill 51**1986**

**An Act to provide for the
Regulation of Rents charged for
Rental Units in Residential Complexes**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Rent Review Hearings Board established under this Act;

“economic loss” means the loss experienced by a landlord whose rate of return on the landlord’s invested equity and capitalized losses in respect of a residential complex is less than the rate of return made applicable to that residential complex by subsection 80 (1), but does not include a financial loss;

“extraordinary operating cost” means a change in the cost of one item in the Building Operating Cost Index that the landlord has experienced or will experience,

- (a) that creates a variance of at least 50 per cent from the Building Operating Cost Index component, or
- (b) that would justify a variance in revenue of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component;

“financial loss” means the loss experienced by a landlord whose total costs that have been or will be experienced and that are allowed in an application made under this Act in respect of a residential complex for an annual accounting period exceed the revenue for the same period;

“landlord” includes the owner, or other person permitting occupancy of a rental unit, and his or her heirs, assigns, personal representatives and successors in title and a per-

son, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

“mail” means first-class, registered or certified mail;

“maximum rent” means the lawful maximum rent which could be charged for a rental unit had all permissible statutory or other increases which could have been taken on or after the 1st day of August, 1985, been taken;

“Minister” means the Minister of Housing or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“Ministry” means the ministry of the Minister;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

“mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

“non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

R.S.O. 1980,
c. 91

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected

or appointed by the members, or a committee thereof,

- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

"prescribed" means prescribed by the regulations made under this Act;

"rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord's agent for the right to occupy a rental unit and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing but does not include,

- (a) any amount required by the *Retail Sales Tax Act* to be collected from a tenant by a landlord, or

R.S.O. 1980,
c. 454

- (b) any amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home, or a home which is a permanent structure, owned by a tenant;

"rental unit" means any living accommodation, site for a mobile home or site on which a single family dwelling is a permanent structure used or intended for use as rented residential premises and includes a room in a boarding house or lodging house;

"residential complex" means a building, related group of buildings or mobile home park, in which one or more rental units are located, or a site or related group of sites on each of which site is located a single family dwelling which is a permanent structure and includes all common areas, services and facilities available for the use of residents of the building, buildings, park, site or sites;

"services and facilities" includes,

- (a) furniture, appliances and furnishings.

- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning or maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities or services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services or facilities;

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

“statutory increase” means the amount by which the rent charged for a rental unit may be increased without application to the Minister under this Act or may have been increased without application under the *Residential Tenancies Act* or under *The Residential Premises Rent Review Act, 1975 (2nd Session)*;

R.S.C. 1970,
c. N-10
R.S.O. 1980,
cc. 209, 339

“subsidized public housing” means a rental unit rented to persons or families of low or modest income who pay an amount geared-to-income for that unit by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*;

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

“tenant” means a person who pays rent in return for the right to occupy a rental unit and his or her heirs, assigns and personal representatives but does not include a person who has the right to occupy a rental unit by virtue of being a co-

owner of the residential complex in which the rental unit is situate or a shareholder of a corporation that owns the residential complex, and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

2.—(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Application
of Act

(2) Where a provision of this Act conflicts with a provision of any other Act, except the *Human Rights Code, 1981*, the provision of this Act applies.

Conflict
1981, c. 53

(3) Notwithstanding subsection (1), where a provision in a written tenancy agreement between a landlord and a tenant conflicts with the provisions of this Act concerning the amount of rent which may be charged for a rental unit, and where the tenancy agreement was entered into before the 2nd day of May, 1985, in respect of a rental unit which was, before the 1st day of August, 1985, exempt from Part XI of the *Residential Tenancies Act* under clause 134 (1) (c), (d) or (e) of that Act, the provision in the agreement applies to the rental unit so long as the tenant who entered into the agreement remains the tenant of the rental unit.

Conflict with
provision in
written
agreement

R.S.O. 1980,
c. 452

(4) Subsection (3) does not apply to a tenancy agreement that provides for the payment at the commencement of the term of the tenancy of a lump sum as the basic rent for the rental unit for a term of ten or more years and that includes provision for the payment by the tenant on a periodic basis of additional amounts related to the cost of maintenance of common areas and other miscellaneous expenses associated with the rental unit.

Where
subs. (3)
does not
apply

(5) Notwithstanding subsection (1), where a written agreement between a landlord and a tenant, entered into before the day this section comes into force, contains a provision requiring the landlord to repay to the tenant any amount of rent that the landlord has charged in excess of that permitted by Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, or permitting the tenant to recover such an amount by deducting a sum from the tenant's rent for a number of rent payment periods, the provision applies notwithstanding anything to the contrary in this Act.

Agreement
respecting
payment of
excess rent

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

3. This Act is binding on the Crown.

Act binds
Crown

4.—(1) This Act does not apply to,

Exemptions
from Act

- (a) transient living accommodation provided in a hotel, motel, inn, tourist home or hostel;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,
 - (i) the living accommodation is provided primarily to persons under the age of majority, or
 - (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households;

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him or her of services related to, a non-residential business or enterprise carried on in the building or project;

- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit.

(2) The Minister, on the application of a landlord or a tenant, or on the Minister's own motion, may make an order under subsection 13 (3) declaring that the Act does not apply to particular transient living accommodation provided in a suite hotel in accordance with the regulations made under this Act.

Order
declaring
non-
application
of Act to
suite hotel

(3) This Act, except sections 5 and 6, does not apply to,

Non-
application,
except for
ss. 5, 6,
of Act

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply;
- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof or situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);
- (c) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;
- (d) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

R.S.C. 1970,
c. N-10

Subsidized
public
housing

(4) This Act does not apply to an increase in the amount geared-to-income paid by a tenant in subsidized public housing who is occupying a rental unit, other than a unit referred to in clause (3) (a) or (b), but this Act does apply to the unit itself.

PART I

NOTICE OF RENT INCREASES

Notice of
rent increase

5.—(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant a notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, and of the current maximum rent, if it is higher than the current rent, intended to be made not less than ninety days before the end of,

(a) a period of the tenancy; or

(b) the term of a tenancy for a fixed period.

Increase
void where
no notice

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Notice
unnecessary
for new
tenant

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase takes effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice of
rent
increase
deemed
in compliance
with
R.S.O. 1980,
c. 232,
ss. 123,
129 (1)

(4) A notice of rent increase given in compliance with this section and section 21 or in compliance with subsection 60 (1) and section 99 of the *Residential Tenancies Act* shall be deemed to be and always to have been sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

Where tenant
fails to give
notice of
termination

6.—(1) Where a tenant who has been given a notice of an intended rent increase under section 5 fails to give the landlord proper notice of termination under the *Landlord and Tenant Act*, the tenant shall be deemed to have accepted the amount of rent increase that does not exceed the amount allowed under this Act.

Deemed
acceptance
not
to constitute
waiver of
tenant's
rights

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in subsection (1) does not constitute a waiver of the tenant's rights to take whatever proceedings are available under this Act in respect of the rent that may be charged for a rental unit.

7. Where a notice of an intended rent increase has been given under section 5, a rent increase up to the lesser of,

Rent
chargeable
until order
takes effect

(a) the intended rent increase specified in the notice;
and

(b) the limit imposed by section 71,

may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

PART II

GENERAL

8. The Minister is responsible for the administration of this Act.

Adminis-
tration

9. The Minister may by order establish regions in Ontario for the purposes of this Act.

Minister may
establish
regions

10. All proceedings under this Act shall be held in the region in which the residential complex in question is situate unless the Minister or the Board, as the case may be, otherwise directs.

Proceedings
in region

11. The Minister shall,

Duties of
Minister

(a) provide information and advice to the public on all residential tenancy matters including referral where appropriate to social or community services and public housing agencies;

(b) investigate cases of alleged failure to comply with an order made under this Act or to comply otherwise with the provisions of this Act and, where the circumstances warrant, commence or cause to be commenced proceedings in respect of the alleged failure to comply;

(c) take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations established by this Act; and

(d) establish such committee or committees as the Minister considers advisable to periodically review and make recommendations, commencing in 1989, to

the Minister concerning the Residential Complex Cost Index and the Building Operating Cost Index.

Delegation

12. The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

Exclusive jurisdiction of Minister and Board

13.—(1) Subject to subsections (4) and (5), the Minister and, on an appeal or where a matter has been referred to it by the Minister, the Board, have exclusive jurisdiction to examine into and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Minister and the Board.

Procedural and interpretative rules and policies

(2) The Minister and the Board, in the interpretation and administration of this Act or when exercising any power or discretion conferred under this Act, shall observe such procedural and interpretative rules and policies as are prescribed.

Minister may determine application of Act, etc.

(3) The Minister, on the application of a landlord or a tenant, or on the Minister's own motion, may make an order determining,

- (a) whether this Act applies to a particular rental unit or residential complex;
- (b) the rental units, common areas, services and facilities that are included in a particular residential complex;
- (c) whether an agreement referred to in subsection 97 (4) has been entered into as a result of some form of coercion; and
- (d) any other prescribed matter of concern respecting the application of this Act.

No order for payment over \$3,000

(4) In any proceedings under this Act, neither the Minister nor the Board shall make an order for the payment of money in excess of \$3,000, but where the Minister or the Board would be justified in making an order for the payment of money in excess of \$3,000, the person to whom the payment would otherwise be made may, by notice in writing in the prescribed form filed with the Minister or the Board, abandon the excess over \$3,000 and the Minister or the Board in that case may make an order for the payment of \$3,000 to the per-

son and the abandonment extinguishes all rights in respect of the excess.

(5) Where, under this Act, a person claims a sum of money in excess of \$3,000, he or she may institute proceedings therefor in any court of competent jurisdiction and the court may exercise any powers that the Minister or the Board could have exercised had the proceedings been before the Minister or the Board.

Court
jurisdiction

14.—(1) A board to be known as the Residential Rental Standards Board, hereinafter called the Standards Board, is established, composed of such number of members as the Lieutenant Governor in Council appoints.

Residential
Rental
Standards
Board
established

(2) The Standards Board shall be assisted in the performance of its duties by such officers and employees of the Ministry as the Minister assigns for the purpose.

Assignment
of staff to
Standards
Board

(3) The members of the Standards Board shall be paid such remuneration and expenses as the Lieutenant Governor from time to time determines.

Remunera-
tion

(4) No action or other proceeding for compensation or damages shall be instituted against the Standards Board or any member of the Standards Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity for
acts done in
good faith

15.—(1) The Standards Board shall,

Duties of the
Standards
Board

- (a) recommend to the Minister the appropriate minimum maintenance standards that should be made applicable to residential complexes and the rental units located therein and appropriate standards relating to the health and safety of the occupants thereof;
- (b) recommend to the Minister the powers and duties that should be conferred or imposed on the Standards Board respecting the development and enforcement of appropriate maintenance standards for residential complexes and the rental units located therein and for standards relating to the health and safety of the occupants thereof;
- (c) recommend to the Minister the form and content of such educational or other programs as will ensure

that landlords and tenants are made aware of the benefits conferred and obligations imposed by the provisions of this Act respecting maintenance standards and their enforcement;

- (d) recommend to the Minister methods of providing for recognition of the importance of dialogue between the landlord and the tenants occurring on a meaningful and timely basis regarding proposed capital expenditures in respect of a residential complex while at the same time acknowledging the rights and responsibilities of landlords to manage their buildings;

- (e) receive a copy of any order relating to a residential complex or any rental unit located therein,

1983, c. 1

- (i) issued by a property standards officer under a by-law passed under section 31 of the *Planning Act, 1983* or a predecessor thereof or passed under any special Act respecting standards for maintenance and occupancy that is in force in a municipality, or

- (ii) made under the provisions of any general or special Act, or any by-law passed thereunder, respecting standards relating to the health or safety of occupants of buildings or structures,

and any notices of appeal from such an order;

- (f) receive and investigate any written complaint from a current tenant of a rental unit respecting the standard of maintenance that prevails in respect of the rental unit or residential complex in which the rental unit is located, where minimum maintenance standards adopted by the Standards Board under the authority of subsection 16 (1) are in force in the area in which the residential complex is situate.

Where
Standards
Board
receives copy
of main-
tenance order

(2) Where the Standards Board receives a copy of an order referred to in clause (1) (e), the Standards Board shall determine whether the standard or standards to which the order relates is or are substantial and if so may cause such investigation to be made as the Standards Board considers necessary to enable it to determine whether or not the order has been complied with in accordance with its terms, and if not, whether the non-compliance is substantial.

(3) Where the Standards Board determines under subsection (2) that substantial non-compliance with a substantial standard has occurred and is subsisting, the Standards Board shall give to the Minister a report in writing setting out the findings of the Standards Board in respect of the matter and shall at the same time give a copy of the report to the landlord of the residential complex and to the tenant of any rental unit affected thereby.

Report to
the Minister

(4) Where the report received by the Minister under subsection (3) indicates that substantial non-compliance with a substantial standard has occurred and is subsisting, the Minister, on his or her own motion, may order that any increase in the rent for a rental unit in the residential complex affected by the maintenance and occupancy order,

Order that
rent increase
be not
collected

(a) that will take effect on or after the date of the Minister's order; or

(b) that took effect at any time in the nine-month period preceding the date of the Minister's order.

be not collected by the landlord until the Minister either receives a report from the Standards Board that the residential complex and any affected rental unit located therein are in substantial compliance with the provisions of the maintenance and occupancy order or so determines under subsection (8).

(5) Where the Minister makes an order under subsection (4) to which clause (b) thereof applies, the order shall specify the date the report of the Standards Board is given to the Minister under subsection (3) as the date on or after which the landlord may not collect an increase in rent.

Date after
which
landlord may
not collect
rent increase

(6) Where the tenant of a rental unit affected by an order of the Minister made under subsection (4) has paid to the landlord any amount of an increase in rent that is declared by the order not to be collected, the Minister shall order the landlord to repay to the tenant the amount of the increase in rent that was paid.

Order for
repayment of
rent increase

(7) An order made by the Minister under subsection (4) may provide that where a report from the Standards Board that the residential complex and the rental units situate therein are in substantial compliance with the provisions of the maintenance and occupancy order is not received by the Minister, or where the Minister does not so determine under subsection (8), within such period of time as the Minister specifies in the order, the right of the landlord to collect any increase in the rent for a rental unit situate in the residential

Collection of
rent increase
forfeited

complex is forfeit and no increase in the rent for such a rental unit may be collected by the landlord except in respect of a period commencing after the day the Minister either receives such a report from the Standards Board or determines under subsection (8) that there is substantial compliance.

Notice to
Minister of
completion of
work

(8) Where a landlord to whom an order has been given under subsection (4) completes the work in respect of which the order was made, the landlord may give a notice to that effect to the Minister and thereupon or where for any other reason the Minister considers it desirable to do so, the Minister may inspect or cause to be inspected the work to determine whether there is substantial compliance with the maintenance and occupancy order for the purposes of subsection (4) or (7).

Matters
taken into
account by
Minister

(9) In deciding whether to make an order under subsection (4), or to include the provision authorized by subsection (7), the Minister shall take into account,

- (a) the nature of the work required to be performed to comply with the maintenance and occupancy order and the history of the matter that is the subject of that order;
- (b) actual seasonal factors and financial constraints affecting the ability of the landlord to perform the required work; and
- (c) the availability of the persons and materials required to perform the required work.

Effect of
order under
R.S.O. 1980,
c. 232, s. 96

(10) The Minister shall not make an order under subsection (4) where an order has been made under section 96 of the *Landlord and Tenant Act* and where compliance with that order would afford an adequate remedy to the tenant of any affected rental unit.

Inspection

(11) Subject to subsection (12), any member of the Standards Board and any employee of the Ministry assigned by the Minister to assist the Standards Board in the exercise of its powers under this Act may, on giving adequate prior written notice of the intention to do so, at reasonable times and upon producing proper identification, enter and inspect any residential complex or rental unit located therein.

Entry into
dwelling
place
R.S.O. 1980,
c. 400

(12) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, a member of the Standards Board or an employee of the Ministry referred to in subsection (11) shall not enter any room or place actually

used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

16.—(1) The Standards Board shall develop and adopt such minimum maintenance standards as it considers appropriate to make applicable to residential complexes and the rental units located therein that are situate in an area, Adoption of minimum maintenance standards

- (a) where no by-law passed under section 31 of the *Planning Act, 1983* or a predecessor thereof or passed under any special Act respecting standards for maintenance and occupancy is in force; 1983, c. 1
- (b) where, although such a by-law is in force, the maintenance standards set out in it are, in the opinion of the Standards Board arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this Act; or
- (c) where, although such a by-law is in force, the methods of enforcement of the by-law are, in the opinion of the Minister arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this Act.

(2) Upon adopting minimum maintenance standards under subsection (1), the Standards Board shall cause the standards to be published in *The Ontario Gazette* and shall give such further notice thereof as the Standards Board considers appropriate to bring the standards to the attention of landlords of residential complexes and the tenants of the rental units located therein that are affected thereby. Notice

(3) Upon receiving a complaint under clause 15 (1) (f), the Standards Board shall cause such investigation to be made as the Standards Board considers necessary to enable it to determine whether there exists substantial non-compliance with a substantial maintenance standard adopted by the Standards Board. Investigation

(4) Where the Standards Board is satisfied that there exists in respect of a residential complex or the rental units located therein substantial non-compliance with a substantial maintenance standard adopted by the Standards Board, the Standards Board may make and give or cause to be given to the landlord of the residential complex an order containing, Contents of order

- (a) the municipal address or legal description of the residential complex;
- (b) reasonable particulars of the work to be performed and the period within which there must be compliance with the terms of the order; and
- (c) the time limited for applying to the Minister for a review of the order.

Application
for review of
order

(5) Where a landlord to whom an order has been given under subsection (4) is not satisfied with the terms of the order, the landlord may, within fourteen days of the giving of the order, make an application in the prescribed form to the Minister to review the order.

Order of
Minister

(6) On an application under subsection (5), the Minister may by order,

- (a) affirm the order of the Standards Board;
- (b) quash the order of the Standards Board;
- (c) vary the order of the Standards Board; or
- (d) substitute the Minister's own order for the order of the Standards Board.

Copy of
order

(7) The Minister shall forthwith give a copy of an order made under subsection (6) to the landlord and to any tenant directly affected by the order.

Appeal from
the Minister's
order under
subs. (6)

(8) An order of the Minister made under subsection (6) may be appealed to the Board only in the manner and under the circumstances set out in subsection (10) except that subsection (10) does not apply to an order made under subsection (6) that quashes the order of the Standards Board.

Order of the
Minister

(9) Where the Minister on the report of the Standards Board is satisfied that an order under this section has not been substantially complied with in accordance with its terms within the period set out for doing so, the Minister, after taking into account the matters mentioned in subsection 15 (9), may, on his or her own motion, make any order the Minister is empowered to make under subsection 15 (4) or (7), the provisions of which subsections apply with necessary modifications.

Joining of
appeals from
Minister's
orders made
under subss.
(6) and (9)

(10) Where a landlord or tenant appeals to the Board from an order of the Minister made under subsection (9), the landlord or tenant may at the same time appeal from any related

order of the Minister made under subsection (6), and where the landlord or tenant does so the Board shall hear and determine both appeals together.

PART III

PROCEDURE

17. A person may make an application to the Minister as a landlord or as a tenant, provided the person was a landlord or a tenant at the time the conduct giving rise to the application occurred.

Who may
make
application

18.—(1) An application to the Minister shall be made in the prescribed form and shall be signed by the person making the application or his or her agent.

Form of
application

(2) Where a landlord makes an application to the Minister and the name of any tenant directly affected by the application is not known to the landlord, the name of the tenant may be shown in the application as "tenant" and all orders shall be binding on the tenant occupying the rental unit as if the tenant had been correctly named.

Where name
of tenant
not known

(3) Where a tenant makes an application to the Minister and the name of the landlord is not known to the tenant, the name of the landlord may be shown in the application as "landlord" and all orders shall be binding on the landlord as if the landlord had been correctly named.

Where name
of landlord
not known

19.—(1) Where a landlord makes an application to the Minister, the landlord shall within ten days give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

Landlord
must give
copy of
application to
tenant, etc

(2) Where a tenant makes an application to the Minister, the tenant shall within ten days give a copy of the application to the landlord.

Tenant must
give copy of
application to
landlord

(3) Where, before an order is made in respect of any application to the Minister, a landlord or tenant is succeeded by a new landlord or tenant, the applicant shall within ten days of becoming aware of such change give the new landlord or tenant a copy of the application.

Where new
landlord or
new tenant

(4) The Minister shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Minister shall be deemed to be compliance with this section.

Minister may
give written
directions

Extension
of time for
application,
etc.

(5) The Minister may, whether or not the time for making an application to the Minister or giving a copy of the application to any party or filing any documents has expired and where the Minister is of the opinion that it would not be unfair to do so, extend the time for the making of the application to the Minister or giving the application to any party or the filing of any documents, and the Minister may attach such terms and conditions to the extension of time as the Minister considers appropriate and shall give notice in writing of the extension of time to all affected parties.

Application
of
subss. (1-5)
to appeals

(6) The provisions of subsections (1) to (5) apply with necessary modifications to appeals to the Board under Part VII of this Act.

Non-
application
to joint
applications

(7) This section, except for subsection (5), does not apply to a landlord and any tenants who jointly make an application under section 86 or 89, or who jointly appeal an order made pursuant to the application.

Notice to
tenant where
rental unit
sublet

20.—(1) A tenant who has sublet a rental unit may give notice in writing to the landlord that the tenant requires the landlord to give him or her a copy of any application made by the landlord under this Act or any other notice required to be given by the landlord under this Act that affects the rental unit that is the subject of the subletting and where the tenant does so the landlord shall give a copy of the application or other notice to the tenant by sending it by mail to the address set out in the notice given by the tenant.

Notice to
prospective
new tenant

(2) The landlord shall, before entering into a tenancy agreement with a new tenant, give the new tenant a notice in writing setting out the maximum rent for the rental unit and shall inform the new tenant of the most recent notice of rent increase given, any pending application made by the landlord under this Act and any current order made in respect of an application or made on the Minister's own motion and any notice of appeal that is pending therefrom.

Where tenant
not informed
of maximum
rent

(3) Where the landlord fails to give the new tenant a notice setting out the maximum rent for the rental unit, if the rent initially charged the new tenant is less than the maximum rent, subsection 71 (4) does not apply unless the new tenant has occupied the rental unit for at least a twenty-four month period.

Method of
giving notice,
etc.

21.—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by,

(a) handing it to the person, or,

(i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or

(ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;

(b) leaving it in the mail box where mail is ordinarily delivered to the person;

(c) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or

(d) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing.

Where notice given by mail

(3) Notwithstanding the other provisions of this section, the Minister or the Board, as the case may be, may in writing direct a notice or document to be given in any other manner.

Minister or Board may give written directions

(4) Notwithstanding the other provisions of this section, a notice or document shall be deemed to have been validly given where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended within the time for the giving of the notice or documents under this Act.

Actual notice is sufficient

(5) The computation of time under this Act shall be in accordance with prescribed rules.

Computation of time

22. The parties to an application or an appeal are the persons making the application or appeal, any person entitled, other than under subsection 19 (3), to receive a copy of the application or a notice of appeal and any person added as a party by the Minister or the Board.

Parties to application or appeal

23. Where, in any proceedings under this Act, the Minister or the Board is of the opinion that,

Changing parties, amending applications

(a) a person who should be included as a party has not been included as a party or that a party has been incorrectly named, the Minister or the Board, as the case may be, shall, unless it would be unfair to do so, require that the person be substituted or added

as a party to the proceedings, or be correctly named;

- (b) a person who has been included as a party should not be included as a party, the Minister or the Board, as the case may be, shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application or the notice of appeal is justified and fair, the Minister or the Board, as the case may be, may direct the application or notice of appeal be amended accordingly.

Frivolous
or vexatious
applications
or appeals

24. The Minister or the Board, as the case may be, may refuse to continue any proceedings where, in the opinion of the Minister or the Board, as the case may be, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Withdrawing
application

25.—(1) An applicant may withdraw an application at any time before the time for submitting representations has ended and thereafter the application may only be withdrawn with the consent of the Minister and the Minister may impose terms on which his or her consent is given.

Withdrawing
joint
application

(2) A landlord who is party to a joint application under section 86 or 89 may withdraw the application as provided in subsection (1).

Idem

(3) Where all the tenants who are parties to a joint application under section 86 or 89 desire to withdraw the application, they may do so as provided in subsection (1).

Idem

(4) Where the tenants of less than all of the rental units subject to a joint application under section 86 or 89 desire to withdraw the application, they may withdraw their rental units from the application as if they were withdrawing an application under subsection (1) and the application shall continue in respect of the remaining rental units that are subject to the application.

Withdrawing
appeal

(5) A landlord or tenant may withdraw an appeal at any time before the hearing of the appeal has commenced but, where the hearing has commenced, the appeal may only be withdrawn with the consent of the Board and the Board may impose terms on which its consent is given.

Withdrawing
joint
appeal

(6) Where an appeal of an order made under section 87 or 89 has been brought jointly by a landlord and one or more tenants, the appeal may be withdrawn under subsection (5)

only where the landlord or all tenants who are parties to the appeal desire to withdraw the appeal.

26.—(1) Where a landlord or a tenant makes an application other than under section 74 or 86, except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

Filing of documents

(2) Any party to an application referred to in subsection (1) may inspect the application and the documents and material filed in respect thereof and any party other than the applicant may submit representations in respect of the application and the material filed therewith not later than thirty days from the date of making the application, or such later date as the Minister may allow and where a party does so, the applicant may submit representations in response thereto not later than forty-five days from the date of the making of the application.

Inspection and submission of representations

(3) Where the Minister extends the time for filing set out in subsection (1), the Minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations under subsection (2) in consequence thereof.

Effect of extension of time

27. All parties to a proceeding under this Act and all persons who have received a notice under section 28 are entitled to examine, and the Minister and the Board, as the case may be, shall make available for examination all material filed with the Minister or the Board pertaining to the proceeding.

Parties may examine material

28.—(1) Before making any order that the Minister is empowered to make on his or her own motion, the Minister shall give a notice in the prescribed form to any landlords and tenants who would be directly affected by the order, and the Minister shall not make an order sooner than sixty days after the giving of the notice.

Notice by Minister

(2) Any person who receives a notice under subsection (1) may, not later than thirty days from the giving of the notice by the Minister, submit documents and make representations to the Minister in respect thereof.

Submission of documents and representations

29. The Minister may at any time in his or her discretion refer any application made to the Minister, or any matter that has been commenced on the Minister's own motion, to the Board and the Board in such case shall hear and determine

Referral of application to Board

the application or matter as though it were an appeal under Part VII.

**Powers of
Minister**

30.—(1) The Minister in respect of any application, or any matter that has been commenced on the Minister's own motion, under this Act may,

- (a) conduct any enquiry or inspection of documents or premises the Minister considers necessary;
- (b) question any person, by telephone or otherwise;
- (c) convene a meeting between the parties to the application or between any persons directly affected by the order for the purpose of discussion of issues raised by the application or matter; and
- (d) by notice in writing, direct any party to the application, or any person directly affected by the matter, to file, within such time as is set out in the notice, such information or additional information as the Minister considers necessary.

**Time and
place of
meeting**

(2) So far as is practicable, the Minister shall hold the meeting mentioned in clause (1) (c) at a time and place agreed to by the parties or persons directly affected.

Inspection

(3) Where, under clause (1) (d), the Minister has directed information or additional information to be filed, the Minister shall notify each of the other parties to the application or landlords and tenants directly affected of the direction and any other party to the application or landlord or tenant directly affected may inspect the information or additional information filed and may submit representations in respect thereof not later than twenty days from the date on which the information or additional information was required to be filed.

**Time for
submitting
represent-
ations**

(4) Where a direction under clause (1) (d) is in respect of an application made under section 74 (whole building review), any party to the application may submit representations in respect thereof not later than forty days before the effective date of the first rent increase applied for or not later than twenty days from the date on which the information or additional information was required to be filed, whichever the last occurs.

**Where
information
or additional
information
not filed**

(5) Where any party to an application fails to comply with a direction of the Minister under clause (1) (d) to file any information or additional information, the Minister may,

- (a) in the case of the applicant, refuse to make an order granting the application or that part of the application relating to the failure to comply with the direction; and
- (b) in the case of any other party to the application, or person directly affected by the matter, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

31. In making any determination in an application under this Act or on any matter commenced on the Minister's own motion, the Minister,

Matters to be considered by Minister

- (a) shall consider any documents, material and oral or written representations submitted in respect of the application or matter commenced on the Minister's own motion; and
- (b) may consider any relevant information obtained by the Minister in addition to the information referred to in clause (a), provided that the Minister first informs the parties of the additional information and gives them an opportunity to explain or refute it.

32. Where an application is made to the Minister under this Act, or where the Minister gives a notice under section 28, a hearing shall not be held in respect of the application or the matter referred to in the notice and the *Statutory Powers Procedure Act* does not apply to the Minister in the exercise of a statutory power of decision under this Act.

Non-application of R.S.O. 1980, c. 484

33.—(1) An order made by the Minister under this Act, subject to Part VII, is final, binding and not subject to review and shall take effect and is enforceable according to its terms from the date it is made.

Order of Minister final

(2) Where the Minister makes an order under this Act, the Minister shall forthwith give a copy of the order to each of the parties to the application, or where the order is made on the Minister's own motion, to each landlord and tenant directly affected by the order, together with a written summary in the prescribed form of reasons for the order.

Copy of order

34.—(1) The Minister or the Board may include in any order terms and conditions the Minister or the Board, as the case may be, considers proper in all the circumstances.

Terms and conditions

Clerical
errors

(2) An order made by the Minister or by the Board that contains a clerical error or omission of the Minister or the Board may be amended by the Minister or the Board, as the case may be, at any time before the hearing of any appeal of the order has been commenced.

Where tenant
may deduct
amount from
rent

35.—(1) Where the Minister or the Board makes an order requiring a landlord to pay an amount of money to a tenant, the Minister or the Board may make an order that the tenant may recover the amount by deducting a specified sum from his or her rent for a specified number of rent payment periods.

Lump sum
payments

(2) The Minister or the Board may, on the application of the tenant, rescind an order made under subsection (1) and may order that any compensation still owing be paid in a lump sum.

Enforcement
of order for
the payment
of money

36.—(1) A certified copy of an order of the Minister or the Board, as the case may be, for the payment of money may be filed with the Supreme Court, the District Court or the Provincial Court (Civil Division) and, on being filed, the order has the same force and effect and all proceedings may be taken on it as if it were a judgment of that Court.

Variation
of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

- (a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or
- (b) if the order or decision varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1).

PART IV

RENT REVIEW HEARINGS BOARD

Board
established

37. A board to be known as the Rent Review Hearings Board is established.

Composition
of Board

38.—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint.

(2) The members of the Board who are not members of the public service of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Remuneration

(3) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to members of the Board.

Application of R.S.O. 1980, cc. 419, 490

39. Members of the Board, other than the vice-chairman, shall not be members of the public service of Ontario, and shall hold office during pleasure.

Term of office

40. Subject to subsection 103 (2), one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board in any proceedings before the Board.

Quorum

41.—(1) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman, and another of the members as vice-chairman.

Chairman and vice-chairman

(2) The chairman shall from time to time assign members of the Board to its various sittings and shall be the chief executive officer of the Board.

Chairman chief executive officer

(3) The vice-chairman is responsible for the general administration of the affairs of the Board and where the chairman is absent or unable to act, the vice-chairman may act as chairman.

Absence, etc. of chairman

42. Where a member of the Board resigns or retires, or for any other reason ceases to be a member, the member may, with the consent of the chairman, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties or responsibilities and exercise any powers that the member would have had if the member had not ceased to be a member of the Board.

Completion of matters by members who resign or retire, etc

43.—(1) The members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties.

Members full time

(2) The members shall file with the Board a written declaration of any interests they have in residential rental property, and shall be required to comply with the conflict of interest guidelines established by the Board.

Conflict of interest

Staff

R.S.O. 1980,
c. 418

44. Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional assistance

45. Subject to such conditions as the Minister may set, the Board may engage persons other than those appointed under section 44 to provide professional, technical or other assistance to the Board and may establish the duties and terms of the engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity for acts done in good faith

46. No action or other proceeding for compensation or damages shall be instituted against the Board, any member of the Board or any member of the Board staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Publication of decisions

47. The Board shall, at least annually, prepare and publish a summary of significant decisions of the Board and the reasons therefor.

Board to adopt expeditious procedures

48. The Board shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter.

Decision to be on merits

49.—(1) Every decision of the Board shall be upon the real merits and justice of the case.

Board to ascertain substance of transactions and activities, etc.

(2) In determining the real merits and justice of the case, the Board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

- (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex.

Audit

50. The accounts of the Board shall be audited annually by the Provincial Auditor.

Annual report

51.—(1) The Board shall at the close of each year file with the Minister an annual report upon the affairs of the Board.

(2) The Board shall make such further reports to the Minister and provide the Minister with such information as the Minister from time to time requires. Further reports

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session. Tabling of reports

52. All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature. Moneys

53. The Board may charge and collect such fees as are prescribed for furnishing to any person, at his or her request, copies of forms, notices or documents filed with or issued by the Board. Fees

PART V

RENT REGISTRY

54.—(1) In this Part, Definitions

“actual rent”, except where otherwise prescribed, means the rent actually charged for a rental unit as of the actual rent date;

“actual rent date” means,

(a) the 1st day of July, 1985, or

(b) where a rental unit was not rented on the 1st day of July, 1985, the first date on which that rental unit is rented after the 1st day of July, 1985.

55. The Minister shall establish and maintain a rent registry for all residential complexes that are subject to this Act. Establishment of rent registry by Minister

56.—(1) The Minister shall, on the request of any person made in the prescribed manner, furnish that person with information that is recorded in the rent registry in respect of any rental unit, but may limit the information so furnished in accordance with the prescribed rules. Furnishing of information from rent registry

(2) The Minister may charge such fees as are prescribed for furnishing information under subsection (1). Fees

57.—(1) Every landlord of a residential complex containing more than six rental units, other than a residential com- Filing of statement by landlord

plex that is a boarding house or a lodging house, shall file a statement in the prescribed form with the Minister,

- (a) on or before the first day of the month that falls not sooner than ninety days after the day this section comes into force, in respect of all rental units in the residential complex that were rented on or before the day this section comes into force; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(2) Every landlord of a residential complex containing six or fewer rental units or of a residential complex that is a boarding house or a lodging house shall file the statement mentioned in subsection (1),

- (a) on or before a date to be prescribed, in respect of all rental units in the residential complex that were rented on or before that date; and
- (b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

Idem

(3) Notwithstanding that a date has not been prescribed under subsection (2), a landlord of a residential complex containing six or fewer units or of a residential complex that is a boarding house or a lodging house may file the statement mentioned in subsection (1) at any time.

Contents of
statement

58.—(1) The statement mentioned in section 57 shall set out the following information:

1. The name and address of the landlord and, where the landlord is not ordinarily resident in Ontario, the name and the address of the landlord's representative or agent in Ontario.
2. The municipal addresses of all buildings which form part of the residential complex.
3. The type (by number of bedrooms) and location (by suite number or other means of identification) of each rental unit in the residential complex that is

subject to rent regulation, together with the actual rent for each such rental unit and the date the actual rent was first charged.

4. Those services and facilities, accommodations and things included in the actual rent for which a separate charge is allocated and the amount of each.
5. Whether the landlord, as of the actual rent date, was responsible for providing hydro, water, heat, cablevision or parking without the allocation of a separate charge.
6. The provisions of any written tenancy agreement mentioned in subsection 2 (3) which conflict with the provisions of this Act concerning the amount of rent that may be charged for a rental unit.
7. The type and location of each rental unit in the residential complex, if any, in respect of which the information in paragraphs 3 to 6 is not required to be set out in the statement, together with the reasons therefor.
8. Such other information as is prescribed.

(2) Subject to subsection (3), the statement filed with the Minister under section 57 shall contain a certification signed by the landlord or, if the landlord is a corporation, signed by the president, secretary or other authorized senior officer thereof, certifying that the information contained in the statement, and any attachments thereto, is true, correct and complete to the best of the landlord's knowledge and belief.

Certification

(3) A landlord may authorize an agent in writing to make the certification mentioned in subsection (2), and the Minister may require a copy of the document authorizing the agent to make the certification to be filed.

Certification
by agent

59.—(1) Where an order issued under this Act, the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)* affects the rent which may be charged for a rental unit for which the actual rent has been set out in a statement filed under section 57, the Minister shall calculate the amount obtained by adding to the rent set out in the most recent such order all permissible statutory increases from the effective date of the rent in the order to the actual rent date.

Minister to
calculate
amount
where
prior order
affects
rental unit
R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

Application
within 90
days

(2) Where the actual rent for a rental unit set out in the statement is the same as or lower than the amount calculated under subsection (1), or does not exceed that amount by more than the prescribed percentage, the time for making an application under section 61 in respect of that rental unit shall be not later than ninety days from the day of the giving by the Minister of a notice under section 60.

Application
within
two years

(3) Where the actual rent for a rental unit set out in the statement exceeds the amount calculated under subsection (1) by more than the prescribed percentage, or where there are no prior orders affecting the rent which may be charged for a rental unit, the time for making an application under section 61 in respect of that rental unit shall be not later than two years from the day of the giving by the Minister of a notice under section 60.

Notice to
landlord of
rents
recorded

60.—(1) As soon as is practicable, the Minister shall give to every landlord who has filed a statement under section 57 a notice in the prescribed form setting out the information recorded for all rental units for which the statement was filed and the time for making an application under section 61.

Notice to
tenant of
rent
recorded
for
tenant's
rental unit

(2) As soon as is practicable, the Minister shall give to the tenant of every rental unit in respect of which the landlord is given a notice under subsection (1) a notice in the prescribed form setting out the recorded information pertaining to the tenant's rental unit and the time for making an application under section 61.

Application
to dispute
information
in notice

61.—(1) A landlord or a tenant who has been given a notice under section 60 may, in the time permitted by subsection 59 (2) or (3), whichever applies, make an application in the prescribed form to the Minister to correct or amend any information in the notice or to dispute the legality of the actual rent.

Application
for
declaration
of lawful rent

(2) A landlord who has been given a notice under subsection 60 (1) may in the time permitted by subsection 59 (2) or (3), whichever applies, make an application in the prescribed form to the Minister for an order declaring the actual rent recorded in the rent registry to be the lawful maximum rent as of the actual rent date.

Where actual
rent recorded
is deemed
lawful rent

(3) Where no application under subsection (1) or (2) is made and no notice mentioned in subsection (4) is given, the rent recorded in the rent registry for such rental unit shall be deemed to be the lawful maximum rent as of the actual rent date.

(4) In respect of any rental unit mentioned in subsection 59 (3), the Minister,

Investigation
by
Minister

- (a) shall, in the case of a rental unit whose rent is affected by a prior order; and
- (b) may, in the case of a rental unit whose rent is not affected by a prior order,

investigate the rents charged for such rental unit and may, on the Minister's own motion, make any order which could have been made had the landlord or the tenant made an application under subsection (1) or (2), provided that the notice under subsection 28 (1) is given by the Minister within the time for making an application in respect of that rental unit.

62.—(1) In any application under section 61, or in response to the Minister's own motion under that section, the landlord may justify the actual rent for any rental unit by adding to the rent permitted to be charged set out in the most recent order made under this Act, Part XI of the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)*, or where no order exists, to the rent charged for the rental unit on the 29th day of July, 1975, or on the earliest date thereafter for which the rent charged is known,

Justification
by landlord
of actual rent

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

- (a) rent increases permitted by Part XI of the *Residential Tenancies Act* and *The Residential Premises Rent Review Act, 1975 (2nd Session)*; and
- (b) rent increases that could have been justified on or after the 29th day of July, 1975, and before the 1st day of August, 1985, on an application made under section 126 of the *Residential Tenancies Act*, had that Act been in force during the whole of that period of time and had the disposition of the application been governed by the prescribed rules made under this Act,

R.S.O. 1980,
c. 452

provided that only an increase permitted or justified under either clause (a) or (b), but not both, may be relied upon to calculate the rent increase for any one twelve-month period.

(2) Where clause (1) (b) is relied upon to calculate a rent increase, the Minister shall determine the justified rent increase in accordance with the prescribed rules and shall consider, in the prescribed manner, any services or facilities that have been added or discontinued on or after the 29th day of

Determina-
tion of
justified rent
increase by
Minister

July, 1975, and before the 1st day of August, 1985, and that affect the rental unit.

Where rent justified lower than actual rent

(3) Where under this section the landlord, in respect of any rental unit, justifies a rent that is lower than the actual rent, the amount so justified by the landlord shall be deemed to be the lawful maximum rent for that rental unit as of the actual rent date.

Where section does not apply

(4) This section does not apply to a rental unit situate in a residential complex in respect of which the statement mentioned in section 57 has not been filed within the time permitted for filing.

Filing of documents and material by landlord

63.—(1) Where a landlord makes an application under subsection 61 (1) or (2) to justify under section 62 the actual rent charged for a rental unit, the landlord shall, not later than thirty days from the date of making the application, file with the Minister the documents and material the landlord relies upon in support of the application and such other material as may be prescribed.

Inspection and submission of representations by tenant

(2) Any tenant affected by the application may inspect the application and any documents and material filed in respect thereof and may submit representations in respect of the application and the documents and material filed therewith not later than eighty days from the date of making the application.

Filing of documents and material by tenant

(3) Where a tenant makes an application under subsection 61 (1), the tenant shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the tenant relies upon in support of the application and such other material as may be prescribed.

Filing of justification, etc., by landlord; response by tenant

(4) A landlord who proposes, in response to a tenant's application under section 61, to justify under section 62 the actual rent charged for a rental unit shall, not later than forty-five days from the date of the making of the tenant's application, file with the Minister a justification in the prescribed form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within ten days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than ninety-five days from the date of the making of the tenant's application.

Idem

(5) A landlord who proposes, in response to the Minister's proposal to make an order under subsection 61 (4), to justify

under section 62 the actual rent charged for a rental unit, shall, not later than thirty-days from the giving by the Minister under subsection 28 (1) of the notice in respect of the proposed order, file with the Minister a justification in the prescribed form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within ten days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than eighty days from the date of the giving of the notice by the Minister under subsection 28 (1).

(6) Where the Minister extends the time for filing set out in this section, the Minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations in consequence thereof.

Effect of
extension of
time

64. In any order made by the Minister under this Part, the Minister shall,

Order of
Minister

- (a) declare the maximum rent that may be charged for each rental unit subject to the order and the earliest date that each may take effect; and
- (b) require any necessary changes to be made to the information recorded in the rent registry.

65. Where the Minister is satisfied that any information recorded in the rent registry is incorrect due to a clerical error or omission, the Minister may, within two years of the date of the error or omission, amend the rent registry accordingly and shall notify the affected parties of any corrected information.

Clerical
errors

66.—(1) Where a landlord has filed a statement under section 57 within the time permitted for filing, no amount shall be ordered under subsection 95 (2) in respect of any excess rent paid before the 1st day of August, 1985 in respect of any rental unit for which the actual rent has been set out in the statement.

Rebate
ordered
where
statement
filed on time

(2) Where a landlord has not filed a statement under section 57 or has filed a statement later than the time permitted for filing, no amount shall be ordered under subsection 95 (2) for any excess rent paid more than six years before the filing date of a tenant's application under that subsection.

Rebate
ordered
where
statement
not filed or
filed late

67. Where a landlord fails to file a statement under section 57 in respect of a residential complex on or before the expiry of the three-month period following the time specified

Where
statement not
filed within
three months
of time for
filing

in that section for the filing of the statement, the Minister on his or her own motion may order that the collection by the landlord of any increase in the rent charged for any rental unit in the residential complex be stayed until the landlord has filed the required statement.

Where no
statement
filed

68. On or after the first day of the month that falls not sooner than ninety days after the day determined under clause 57 (1) (a), no application made by a landlord or appeal by the landlord therefrom under this Act shall be proceeded with by the Minister or the Board if the landlord has not filed a statement under section 57 in respect of the residential complex concerned, whether or not the time for filing the statement has expired.

Register
to be kept
current

69. The Minister shall keep current the information recorded in the rent registry by incorporating, where applicable,

- (a) an order made under this Act;
- (b) an order made under the *Residential Tenancies Act*;
- (c) a statutory increase permitted to be taken under this Act;
- (d) a statutory increase that was permitted under Part XI of the *Residential Tenancies Act*;
- (e) a notice given under subsection 92 (2);
- (f) a written approval of the Minister given under subsection 91 (6); and
- (g) any other relevant change in the information recorded in the rent registry.

R.S.O. 1980,
c. 452

PART VI

RENT REGULATION

Twelve-
month
period
between rent
increases

70. The rent charged for a rental unit shall not be increased unless a period of at least twelve months has elapsed since the date of the last rent increase.

Maximum
increase
without
application

71.—(1) Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit,

- (a) to take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987, by more than 4 per cent; and
- (b) to take effect on or after the 1st day of January, 1987, and to take effect on or after the 1st day of January in any subsequent year, by more than the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A hereto,

of the last rent that was charged for the rental unit for an equivalent rental period.

(2) The Minister shall calculate the Residential Complex Cost Index that is applicable for each year and shall publish the Index in *The Ontario Gazette* not later than the 31st day of August of the immediately preceding year.

Calculation and publication of Index by Minister

(3) Notwithstanding subsection (2), in respect of the Residential Complex Cost Index applicable for the year 1987, the Minister shall calculate and publish the Index in *The Ontario Gazette* not later than thirty days after the day this subsection comes into force.

RCCI for 1987

(4) A landlord may increase the rent charged for a rental unit by more than the amount permitted by clause (1) (a) or (b) without making an application under this Act, provided that the amount of the rent after the increase is applied is not higher than the maximum rent as of the date the rent increase takes effect.

Maximum rent

72. A landlord may make an application under this Part despite the fact that the landlord may not have, in respect of any rental unit, given notice under section 5 (notice of rent increase), but nothing in this section relieves the landlord from compliance with section 5.

Landlord may apply although notice of rent increase not yet given

73.—(1) This section applies only to rental units that, before the repeal of clauses 134 (1) (c) and (d) of the *Residential Tenancies Act* by section 126 of this Act, were exempt from Part XI of that Act.

Application R S O 1980, c. 452

(2) Where a notice of rent increase to increase the rent charged for a rental unit by more than the increase permitted by clause 71 (1) (a) or (b), whichever is applicable, has been given before this section comes into force, to take effect on or after the 1st day of August, 1985, where the landlord makes an application permitted under clause (3) (b), the rent

Notice for rent increase of more than amount permitted under s. 71 (1) (a) (b)

increase specified in the notice may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

Landlord to
repay excess
rent or bring
application
under s. 74

(3) A landlord who has increased the rent charged for a rental unit by more than the increase permitted by clause 71 (1) (a) or (b), whichever is applicable effective on or after the 1st day of August, 1985, pursuant to a notice of rent increase given before this section comes into force, shall, on or before the sixtieth day after the coming into force of this section,

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of the increase permitted by clause 71 (1) (a) or (b), whichever is applicable; or
- (b) apply to the Minister under section 74 (whole building review) even though the time for making such an application set out in subsection 74 (3) has expired.

Where
landlord
fails to
comply
with cl.
(3) (a)
or (b)

(4) Where a landlord fails to comply with clause (3) (a) or (b), the tenant may,

- (a) deduct the amount of the rent paid by the tenant that is in excess of the increase permitted by clause 71 (1) (a) or (b), whichever is applicable from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Minister under subsection 95 (2).

Application
by landlord

74.—(1) Where a landlord desires to increase the rent that may be charged for a rental unit by more than the amount permitted by section 71, the landlord may apply to the Minister in the prescribed form for an order permitting the landlord to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

Whole
building
review

(2) When the landlord applies to the Minister under subsection (1), the landlord shall, as part of the same application, apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

(3) An application made under this section shall be made not later than ninety days before the effective date of the first intended rent increase.

Time for making application

(4) At the time the application is filed, the landlord shall file with the Minister a cost revenue statement in the prescribed form together with all documents that the landlord relies upon in support of the application and such other material as may be prescribed.

Filing of cost revenue statement

(5) Any tenant affected by the application may submit material and make representations in respect thereto not later than forty days before the effective date of the first rent increase applied for and where a tenant does so the landlord may submit material and make representations in response thereto not later than forty days before the effective date of the first rent increase applied for or twenty days from the date of the tenant's submission, whichever is the later.

Submission of material and making of representations

(6) Where the Minister extends the date for filing under subsections (3) and (4) or the date for submitting material and making representations under subsection (5), the Minister shall notify each of the parties affected by the application of the extended date and any party shall be permitted up to forty days before the effective date of the first rent increase applied for or twenty days from the extended date, whichever is the later, to submit material and make representations in respect of the application.

Extension of time

75. Where an application is made by a landlord to the Minister under section 74, the Minister shall determine the total rent increase for the residential complex that is justified by,

Determination by Minister of total rent increase

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning financing costs, capital expenditures and extraordinary operating costs that the landlord has experienced or will experience in respect of the residential complex;
- (c) the degree to which actual financing costs or capital expenditures vary from the projected amounts allowed in respect of such costs or expenditures in a previous order made under this Act or the *Residential Tenancies Act*;

R.S.O. 1980, c. 452

- (d) the prescribed allowances for management and administration in respect of capital expenditures;
- (e) the findings of the Minister concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;
- (f) the findings of the Minister concerning a change in the services and facilities provided or in the standard of maintenance and repair in respect of the residential complex or any rental unit located therein;
- (g) in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the rate of return that is applicable to the residential complex in order to eliminate an economic loss;
- (h) the findings of the Minister concerning financing costs no longer borne by the landlord and which were allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*, where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985;
- (i) in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, the extent to which the rent for the residential complex is a chronically depressed rent within the meaning of section 91; and
- (j) the findings of the Minister concerning matters prescribed.

R.S.O. 1980,
c. 452

Where
grounds for
increase
financing
costs,
financial loss,
economic loss
or do not
include
capital
expenditures

76.—(1) Where, on an application made by a landlord under section 74, it is found by the Minister that the grounds that justify an increase in rent by more than the amount permitted by section 71,

- (a) are only one or more of the financing costs, financial loss or economic loss; or
- (b) do not include any amount for capital expenditures,

that the landlord has experienced or will experience in respect of the residential complex, the Minister shall apply the percentage determined under clause 71 (1) (a) or (b) whichever is

applicable, instead of the operating cost allowance determined under clause 75 (a).

(2) Notwithstanding subsection (1), where on an application made by a landlord under section 74, a capital expenditure is found by the Minister to be of a continuing nature within the meaning of the regulations made under this Act, the Minister, in respect of any subsequent application made by the landlord under section 74 in which the capital expenditure is found to be continuing, shall apply the percentage determined under clause 71 (1) (a) or (b) whichever is applicable, instead of the operating cost allowance determined under clause 75 (a).

Continuing
capital
expenditure

77.—(1) Where a landlord claims to have experienced a financial loss or an economic loss or where the landlord may be entitled to an allowance for relief of hardship or an allowance in respect of chronically depressed rent, the landlord shall submit proof of the actual operating costs that the landlord has experienced in respect of the residential complex.

Proof of
operating
costs

(2) Notwithstanding subsection (1), where, for the purposes of a prior order made under subsection 83 (1) of this Act or under subsection 131 (5) of the *Residential Tenancies Act*, the operating costs experienced in respect of the residential complex have been determined, and where the effective date of the first rent increase set out in that order is not more than three years prior to the effective date of the first rent increase applied for by the landlord in the current application, the landlord may elect not to submit proof of the operating costs that the landlord has experienced in respect of the residential complex.

Election by
landlord

R.S.O. 1980,
c. 452

(3) Where the landlord makes an election under subsection (2), the operating costs shall be determined by reference to the amounts determined for the purposes of the prior order referred to in subsection (2), increased in the prescribed manner.

Determina-
tion of
operating
costs where
election
made

78.—(1) In making findings concerning capital expenditures under clause 75 (b) or under clause 87 (1) (b), the Minister shall,

Allowance
of interest,
etc

- (a) allow interest on the expenditure, whether financed by borrowing or out of the landlord's own funds, or by a combination thereof, at the prescribed rates;
- (b) when the expenditure is financed by borrowing, allow the value of any guarantees given by or on behalf of the landlord to the lender; and

- (c) allow the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure.

Reduction
for capital
expenditures
previously
allowed
R.S.O. 1980,
c. 452

(2) Where, in an application under section 74 or 86, the landlord claims a capital expenditure for the replacement of an item allowed as a capital expenditure in a previous order made under this Act or the *Residential Tenancies Act*, and where the capital expenditure allowed in the previous order was completed on or after the 1st day of August, 1985, the Minister shall reduce the total rent increase that would otherwise be justified in the application by the amount allowed in respect of the capital expenditure in the previous order.

Limitation on
consideration
of financing
costs

79.—(1) In making findings concerning financing costs under clause 75 (b), the Minister shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord.

Relief of
hardship

(2) Where an application is made by a landlord under section 74, if the revenue found in respect of the residential complex does not exceed the actual operating and financing costs by at least 2 per cent, the Minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the revenue to not more than 2 per cent above those costs.

Limit on rent
increase
attributable
to
increased
financing
costs
resulting
from
purchase of
residential
complex

(3) Where a landlord claims a financial loss arising out of an increase in the financing costs of the residential complex resulting from a purchase or purchases of the residential complex, the Minister, when determining the total rent increase for the residential complex, shall allow in the initial year (as the component of the total increase in rent determined by the Minister that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex and in subsequent years the amount allowed in respect thereof by the Minister in any such year shall not exceed 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Definition

(4) For the purposes of subsections (1), (3) and (6), "purchase" means the acquisition of a residential complex, after the 31st day of December, 1979, by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in any agreement to purchase a residential complex.

(5) Where the Minister allows a financial loss arising out of the circumstances set out in subsections (1) and (3), the Minister shall not allow the additional revenue mentioned in subsection (2) except in the last year during which the financial loss is phased in, but then only where the amount attributable to the financial loss together with the amount allowed under subsection (2) does not exceed 5 per cent of the last lawful rents that were charged for the residential complex.

Limitation
on relief of
hardship
allowance

(6) Subsections (3) and (5) do not apply to the purchase of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, where,

Where
subss. (3, 5)
do not apply

- (a) the purchase was from the original owner of the residential complex and the residential complex was constructed for the purpose of such a purchase; or
- (b) the building permit to construct the residential complex was issued on or before the 18th day of April, 1986, and the agreement to purchase was entered into on or before the 18th day of April, 1986.

(7) In making findings concerning financial loss under clause 75 (e), the Minister shall allow interest paid after the 1st day of August, 1985, at the prescribed rates on loans in respect of any financial loss incurred since the acquisition of the residential complex by the landlord, provided that where the financial loss arises out of an increase in financing costs resulting from a purchase or purchases or refinancing thereof in respect of the residential complex, the maximum allowed financing shall not exceed 85 per cent of the acquisition cost and only that portion of the interest paid on loans attributable to the maximum allowed financing shall be allowed.

Interest

80.—(1) The rate of return in respect of a residential complex, no part of which was occupied as a rental unit before the 1st day of January, 1976, and the building permit for the construction of which is issued,

Rate of
return

- (a) on or before the 31st day of December, 1986, is 10 per cent; or
- (b) after the 31st day of December, 1986, is the three-year moving average, as of the year in which the building permit is issued, of the Canada Bond rate for ten years and over plus 1 percentage point,

of the landlord's initial invested equity, including the principal portion of any debt not otherwise allowed, up to the amount

of the acquisition costs of the residential complex, and capitalized financial losses.

Phase in
of economic
loss and
financial
loss

(2) Where a landlord claims an economic loss in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the Minister shall allow in the initial and any subsequent year, as the amount attributable towards the elimination of financial loss and economic loss,

- (a) in respect of a residential complex, the permit for the construction of which was issued on or before the 1st day of July, 1986, the greatest of,
 - (i) the amount required to eliminate the economic loss over a period of five years from the earliest effective date of rent increase set out in the first order made on an application under section 74,
 - (ii) 5 per cent of the gross potential rent for the preceding year or the total of the amount required to eliminate the economic loss, whichever is less, and
 - (iii) the amount required to eliminate the financial loss experienced in the preceding year; and
- (b) in respect of a residential complex, the permit for which was issued after the 1st day of July, 1986, the lesser of,
 - (i) the total of the amount required to eliminate the economic loss and the financial loss together with the amounts otherwise justified in the application under section 74, and
 - (ii) the portion of that amount that will result in a maximum rent increase that does not exceed the highest of,
 - (A) the amount required to eliminate the financial loss experienced in the preceding year,
 - (B) 10 per cent of the gross potential rent for the preceding year, and

(C) an amount that is three times the increase permitted under subsection 71 (1).

81. In making findings under clause 75 (h), the Minister shall consider a financing cost which is no longer borne only to the extent of the amount that was previously allowed in respect of that financing cost.

Extent of consideration of financing cost no longer borne

82.—(1) In apportioning the total rent increase amongst the rental units in the residential complex, the Minister may take into account the following matters:

Apportionment of total rent increase

1. The rent schedule proposed by the landlord's application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
3. The degree to which any capital expenditures the landlord has experienced or will experience in respect of the residential complex affect individual rental units in the residential complex.
4. Any other prescribed matter.

(2) In apportioning the total rent increase under subsection (1), the Minister may set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complex but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that rental unit in the twelve-month period immediately preceding the date of the rent increase.

Equalization of rents

(3) In setting the maximum rents to achieve equalization under subsection (2), the Minister may set a maximum rent for a rental unit that is less than the rent currently being charged for that rental unit.

Maximum rent set lower than current rent

83.—(1) Where the Minister has determined and apportioned the total rent increase on an application made under section 74,

Order re maximum rent chargeable for each unit

- (a) the Minister shall order the maximum rent that may be charged for each rental unit in the residential complex that is under review and the earliest date that each may take effect; and

- (b) the Minister may order that the landlord or tenant pay to the other any sum of money that is owed to the other by reason of the order of the Minister setting the maximum rent for a rental unit.

Minister may order increase less than statutory increase

- (2) Where a landlord has applied for a rent increase greater than the amount permitted by section 71, the Minister may, if his or her findings so justify, allow a rent increase of less than the amount permitted by section 71.

Where rent charged exceeds maximum rent

- (3) In any application under section 74, where the Minister finds that the rent being charged for any rental unit exceeds the maximum rent for that rental unit, the Minister shall apply any rent increase that is otherwise justified, not to the rent currently being charged for the rental unit, but to the maximum rent for that rental unit.

Time for making order

- (4) Subject to subsection (5), the Minister shall make an order in respect of any application under this section not later than fifteen days before the effective date of the first rent increase applied for in the application.

Extension of time for making order

- (5) Where it is not possible in the circumstances for the Minister to make an order in respect of any application within the time set out in subsection (4), the Minister shall notify in writing the parties to the application of the reason why it is not possible and of the date on or before which the order will be made.

Application by landlord for equalization of rents

- 84.**—(1) Without bringing an application under section 74, a landlord may make an application in the prescribed form to the Minister for an order apportioning the total rent charged in respect of a residential complex amongst the rental units situate therein, for the purpose of varying the rents so as to achieve equalization of rents charged for similar rental units within the residential complex.

Time for making application

- (2) An application under subsection (1) shall be made at least ninety days before the effective date of the first intended variation in rent as set out in the application.

Apportioning of rents charged to achieve equalization

- (3) Where the Minister is satisfied in an application made under this section that the rents ought to be equalized, the Minister shall set the rent that may be charged for any rental unit so that the landlord may achieve equalization of the rents charged for similar rental units within the residential complex, but the amount of rent increase that is attributable to the equalization in respect of any rental unit shall not exceed 5 per cent of the maximum rent that was chargeable for that

rental unit in the twelve-month period immediately preceding the date or dates of the rent increase.

(4) In setting the rents to achieve equalization under subsection (3), the Minister may set a rent that may be charged for a rental unit at an amount that is less than the rent currently being charged for that rental unit.

Rent set lower than current rent

(5) Where the Minister has determined and apportioned the rent charged amongst the rental units in the residential complex, the Minister shall order the percentage, if any, by which the rent charged for a rental unit may be varied from the amount that would otherwise be the maximum rent for that rental unit and the date or dates on which such variation may take effect.

Order re variation in rents to achieve equalization

85.—(1) Within two years of the effective date of the first rent increase set out in an order made under subsection 83 (1), a landlord or a tenant may apply in the prescribed form to the Minister for an adjustment to the financial loss or economic loss allowed in the order or to the extraordinary operating costs allowed in the order, on the basis that the operating costs used in the calculation of the financial loss, economic loss or extraordinary operating costs were substantially higher or lower than the operating costs actually experienced in respect of the residential complex in a subsequent year.

Application for adjustment to financial loss, economic loss or extraordinary operating costs allowed for

(2) In an order made by the Minister on an application under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit in the residential complex that is under review and the earliest date that each may take effect, provided that the earliest such date is not earlier than the day the application was made.

Order re maximum rent chargeable for each unit

86.—(1) Where a landlord desires to increase the rent that may be charged for one or more rental units in a residential complex by more than the amount permitted by section 71 because of capital expenditures the landlord has experienced or will experience in respect of such rental units, the landlord and the tenants of such rental units may jointly apply in the prescribed form to the Minister at least sixty days before the effective date of the first intended rent increase for an order permitting the landlord to do so.

Part building review

(2) Where the residential complex contains more than twelve rental units an application under subsection (1) shall not include the tenants of more than 25 per cent of the rental units in the residential complex.

Application limited to 25 per cent of rental units

Filing of
capital cost
revenue
statement

(3) The landlord and the tenants shall file with the Minister a capital cost revenue statement in the prescribed form together with all documents that the parties rely upon in support of the application, including any written representations, and such other materials as may be prescribed not later than forty days before the effective date of the first rent increase applied for.

Determi-
nation
by Minister
of rent
increase for
each unit

87.—(1) Where an application is made by a landlord and one or more tenants under section 86, the Minister shall determine the rent increase for each rental unit which is subject to the application that is justified by,

- (a) the operating cost allowance calculated in accordance with the formula set out in Schedule B hereto or, where the effective date of the first rent increase applied for is before the 1st day of January, 1987, the prescribed operating cost allowance;
- (b) the findings of the Minister concerning capital expenditures that the landlord has experienced or will experience that affect each rental unit;
- (c) the prescribed allowances for management and administration in respect of capital expenditures; and
- (d) the findings of the Minister concerning matters prescribed.

Order re
maximum
rent
chargeable
for each
unit

(2) Where the Minister has determined the rent increase for each rental unit under subsection (1), the Minister shall order the maximum rent that may be charged for each rental unit under review and the earliest date that each may take effect.

Application
for
conditional
determination
respecting
rate of return

88.—(1) At any time before the first rental unit in a residential complex is occupied, a landlord may make an application in the prescribed form to the Minister for an order determining the treatment any proposed course of action that may affect the rate of return for the residential complex will receive on a subsequent application under section 74, and the Minister shall, by order, make any determination the Minister considers appropriate.

Subsequent
application
required

(2) An order under subsection (1) is conditional on the landlord making a subsequent application in the prescribed form to the Minister to review the order in the light of the actual course of action taken by the landlord in relation to the matters determined.

(3) An application under subsection (2) shall be made not later than twelve months after the day the first rental unit is occupied.

Time for making subsequent application

(4) In an order made on an application under subsection (2), the Minister may vary or confirm the order made under subsection (1).

Variance or confirmation of conditional determination

(5) A determination in an order made under subsection (1) has no force or effect except as varied or confirmed by an order made on an application under subsection (2).

Effect of conditional determination

89.—(1) Prior to making a capital expenditure in respect of a residential complex or any rental unit therein, the landlord may, or the landlord and the tenants of the rental units concerned jointly may, apply in the prescribed form to the Minister for a conditional order under subsection (2).

Application for conditional order

(2) In an application under subsection (1), the Minister shall consider the proposed capital expenditure and shall by order declare the amount that will be allowed in respect of the expenditure in a subsequent application made under subsection 74 (1) (whole building review) or subsection 86 (1) (part building review), and where on the subsequent application the actual expenditure is substantially higher or lower than the projected expenditure the amounts allowed shall be decreased or increased proportionately.

Order by Minister

90. An order of the Minister on an application made under this Part may award a rent increase greater than that requested in the application and where the order does so, the maximum rent for each rental unit affected by the order will be established in accordance with the terms of the order, but the rent charged for any such rental unit during the twelve-month period following the effective date of the rent increase set out in the order shall not exceed the amount that would have been established for that rental unit had the rent increase requested in the application been awarded.

Where greater rent increase awarded than applied for

91.—(1) In this section, "chronically depressed rent" means the gross potential rent for a residential complex where,

Definition

- (a) the rent is more than 20 per cent below the gross potential rent for residential complexes that are comparable to the residential complex, in terms of number and type of rental units, quality and location; and

- (b) the rate of return on the landlord's equity in respect of the residential complex is less than 10 per cent.

Allowance re
chronically
depressed
rent

(2) In an application made under section 74 not later than two years after the day this section comes into force in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January, 1976, where,

- (a) the landlord has owned the residential complex throughout the period from the 1st day of November, 1982, to the day the application is made; or
- (b) the landlord has acquired the residential complex by inheritance or through foreclosure proceedings from a previous landlord who had owned the residential complex throughout the period from the 1st day of November, 1982 to the date of its acquisition by the present landlord who in turn has owned it until the day the application is made,

and the Minister finds the gross potential rent is a chronically depressed rent, the Minister shall allow, in an order made under subsection 83 (1), an additional 2 per cent per year of the gross potential rent until the rent is no longer a chronically depressed rent.

Request for
relief

(3) Where the Minister makes an order that provides for the allowance referred to in subsection (2), any tenant of a rental unit in the residential complex may make a request in the prescribed form to the Minister for relief from payment of the allowance.

Agreement
providing for
payment by
Minister to
landlord of
allowance

(4) If the Minister determines that the tenant making the request meets the prescribed criteria for relief, the Minister shall inform the landlord, who shall thereupon enter into an agreement containing the prescribed terms with the Minister that will provide for payment by the Minister to the landlord of that portion of the maximum rent for the affected rental unit that is attributable to the allowance referred to in subsection (2).

Where
landlord fails
to enter into
agreement

(5) If the landlord fails to enter into the agreement referred to in subsection (4), the Minister shall order that the portion of the allowance referred to in subsection (2) that affects the maximum rent of the rental unit shall not be charged by the landlord and may provide in the order that the landlord repay to the tenant any amount that is owing to the tenant by reason of the order.

(6) Where a rental unit in a residential complex whose gross potential rent is found to be a chronically depressed rent under subsection (2) becomes occupied by a new tenant or where an existing tenant of the rental unit agrees in writing thereto, the landlord, with the written approval of the Minister and without making an application under section 74 but subject to section 70, may increase the rent charged for that rental unit to the amount the rent would be for that rental unit at the time the gross potential rent for the residential complex has reached the level at which it is no longer a chronically depressed rent.

Where new tenant or existing tenant consents

(7) Where on the application in the prescribed form of a tenant or on the Minister's own motion the Minister finds a significant deterioration in the standard of maintenance and repair in respect of the rental unit or the residential complex in which it is situate has occurred after the date of the order mentioned in subsection (2), the Minister may order that the landlord no longer charge the allowance referred to in subsection (2) or any part thereof, or the increase in rent charged for a rental unit pursuant to subsection (6), and may declare the maximum rent that may be charged for the rental unit or units affected.

Deterioration in standard of maintenance and repair

(8) An application or motion under subsection (7) may not be made after the expiry of twelve months from the date that the rent for the rental unit is no longer chronically depressed.

Time for making application

92.—(1) An order made under this Part may provide for the phasing in over more than one year, in the prescribed manner, of any amount that is included (as a component of the total permitted rent increase) for the purpose of,

Phasing in of certain amounts that are components of total rent increase

- (a) eliminating a financial loss or an economic loss the landlord has experienced or will experience;
- (b) achieving equalization of rents charged for rental units within a residential complex;
- (c) raising the gross potential rent for a residential complex to the level where the rent is no longer a chronically depressed rent within the meaning of section 91;
- (d) relieving the landlord from hardship under subsection 79 (2) or (5); or
- (e) recovering financing cost increases that are subject to phasing in under the prescribed rules,

and where provision is made for such phasing in, the Minister shall specify in the order the phased in amount for the initial year and the method of calculating the amount for any subsequent year or years in which the phased in amount is applicable.

Notice by
Minister to
landlord and
entry in rent
registry

(2) The Minister shall calculate the phased in amount that is applicable in any year subsequent to the initial year and, not later than 120 days before the anniversary of the date of the first rent increase set out in the order, shall give notice in writing of the amount to the landlord who is affected and shall enter the phased in amount that is applicable for the year in the information recorded in the rent registry in respect of any rental unit that is affected thereby.

Notice to
tenant

(3) The landlord shall include with a notice of rent increase given under section 5 any notice the landlord has received under subsection (2) that affects the amount of the rent increase set out in the notice given under section 5.

Increasing
rent by
phased in
amount

(4) In addition to the amount by which, under section 71, the landlord could increase the rent charged, the landlord may, without making an application under this Act, increase the rent for a rental unit by the phased in amount set out in the notice given under subsection (2) respecting that rental unit.

Decrease in
financing
costs
R.S.O. 1980,
c. 452

93.—(1) Where a landlord has been awarded a rent increase under this Act or the *Residential Tenancies Act* that was justified, in whole or in part, by a rate increase in financing costs that took effect on or after the 1st day of August, 1985, if at the time the term of the mortgage or other instrument associated with the financing costs expires or is about to expire the Minister is of the opinion that the rate of interest required to be paid on a renewal or replacement of the mortgage or other instrument is lower by 1 per cent or more than the interest rate that justified the rent increase that was awarded, the Minister shall give notice thereof in writing to the landlord and the tenants of the residential complex that is affected.

Landlord to
file
documents
with Minister

(2) Not later than thirty days after the receipt of a notice under subsection (1), the landlord shall file with the Minister all documents that are relevant to the financing costs that the landlord will experience following the expiry of the term of the mortgage or other instrument.

Order that
maximum
rent be not
increased

(3) Unless the landlord makes an application under section 74 within the time set out therein, the Minister may, on the Minister's own motion, determine the amount of rent increase

that is no longer justified by reason of the lower interest rate and may order that the maximum rent chargeable for each rental unit in the residential complex as of the date of the order be not increased for a period of time determined in the prescribed manner.

(4) In making the determination under subsection (3) of the amount of increase that is no longer justified, the Minister shall take into account only the matters in respect of which the Minister may make findings under clause 75 (h).

Matters to be considered by Minister

94.—(1) A tenant who desires to dispute an intended rent increase for his or her rental unit that does not exceed the amount that the landlord is permitted to charge under section 71 may make an application in the prescribed form to the Minister for an order requiring the landlord to reduce the amount of the rent increase.

Application by tenant disputing intended rent increase

(2) Where the intended rent increase includes a phased in amount under the authority of section 92 in addition to the amount the landlord is permitted to charge under section 71, the tenant may dispute in accordance with this section that portion of the intended rent increase that is composed of the amount the landlord is permitted to charge under section 71.

Where phased in amount added to statutory increase

(3) No rent increase shall be reduced under this section when the rent increase results in a rent not exceeding the maximum permitted by an order by the Minister or the Board or by the Residential Tenancy Commission under the *Residential Tenancies Act*, for the applicable rental unit.

Exception

R.S.O. 1980, c. 452

(4) An application under this section shall be made not later than sixty days before the effective date of the intended rent increase.

Time for application

(5) Where an application is made by a tenant under this section, in determining a rent increase for the rental unit, the Minister shall consider only the following matters:

Considerations where tenant applies

1. Variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex.
2. A change shown to have occurred in the standard of maintenance and repair or in the services and facilities provided that affects the rental unit.
3. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board.

Order setting
maximum
rent
chargeable
for the unit

(6) Where the Minister has made a determination on the application,

- (a) the Minister shall make an order setting the maximum rent that may be charged for the rental unit under review and the twelve-month period during which that maximum rent shall be in effect; and
- (b) the Minister may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Minister setting the maximum rent for the rental unit.

Application
by landlord
for
equalization
of rents

(7) Where a tenant makes an application under subsection (1) on the grounds set out in paragraph 1 of subsection (5), the landlord may, not later than thirty days from the day the tenant's application was filed, make an application to the Minister under subsection 84 (1).

First date
of intended
variation

(8) Notwithstanding subsection 84 (2), the first date of intended variation in rent in a landlord application under subsection 84 (1) as provided in subsection (7) shall be the effective date of the rent increase disputed by the tenant in the application under subsection (1).

Tenant not
liable to pay
illegal rent
increase

95.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Act.

Remedy

(2) Where, on the application in the prescribed form of a tenant, the Minister determines that the landlord has charged the tenant an amount of rent that is in excess of that permitted by this Act or Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, the Minister,

- (a) shall by order declare the maximum rent that may be charged for the rental unit concerned and the earliest date the maximum rent may take effect; and
- (b) where any excess rent paid by the tenant to the landlord is owed by the landlord to the tenant, shall, subject to subsection 13 (4), order the landlord to pay the excess rent owing to the tenant.

Where excess
rent not to
be repaid

(3) Notwithstanding subsection (2), the Minister shall not make an order for the payment of excess rent charged for a rental unit prior to the 1st day of August, 1985, where the sum of the excess rent and the lawful rent for the rental unit does not exceed the rent that could have been charged for the rental unit in the period when the excess rent was paid, if, to

the amount charged for the rental unit on the 29th day of July, 1975, or at the earliest time thereafter for which the rent charged is known, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and Part XI of the *Residential Tenancies Act*.

1975
(2nd Sess.),
c. 12
R.S.O. 1980,
c. 452

96. Where a landlord makes an application under section 74, 86 or 89, the Minister may refuse to recognize all or part of the capital expenditures or proposed capital expenditures claimed by the landlord where in the opinion of the Minister such expenditures are substantial and became necessary as a result of the landlord's ongoing deliberate neglect in maintaining the residential complex or any rental unit therein.

Consequences
of neglect in
maintaining
residential
complex or
rental unit

97.—(1) In this section,

Definitions

"basic unit rent" means the amount of rent charged for a rental unit exclusive of any separate charges;

"separate charges" means the amounts of rent charged separately for any service, facility, privilege, accommodation or thing that the landlord provides for the tenant in respect of the tenant's occupancy of the rental unit.

(2) In any order under this Act in which the Minister sets out or declares the maximum rent that may be charged for a rental unit, the Minister may separately set out or declare the maximum basic unit rent and the maximum separate charges.

Minister may
set out or
declare basic
unit rent and
separate
charges

(3) Notwithstanding subsection 82 (2) or 84 (3), an order of the Minister made under subsection 83 (1) or 84 (5) may provide for the immediate equalization of separate charges for parking spaces or other separate charges as may be prescribed.

Immediate
equalization
of separate
charges

(4) Notwithstanding anything in this Act, where a landlord and tenant agree that the landlord will provide any additional, or discontinue the provision of any, parking spaces, or any other service, facility, privilege, accommodation or thing as may be prescribed, in respect of the tenant's occupancy of a rental unit, the maximum rent which may be charged for the rental unit shall be increased or decreased in the prescribed manner.

Adding or
discontinuing
services,
facilities, etc.

(5) Where the Minister by order under subsection 13 (3) determines that an agreement under subsection (4) has been entered into as a result of some form of coercion, the agreement is not enforceable.

Coerced
agreement
not
enforceable

Not increase
for purposes
of s. 70

(6) An increase in rent charged in accordance with this section does not constitute an increase in rent charged for the purposes of section 70.

Where rental
unit not
rented for
some time
again
becomes
rented

98. Where a rental unit that has been rented at any time on or after the 29th day of July, 1975, has subsequently been not rented for any period of time and then again becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during the period it was not rented and the landlord had given notice or notices of rent increase in the amount permitted by this Act, *The Residential Premises Rent Review Act, 1975 (2nd Session)* or Part XI of the *Residential Tenancies Act*.

1975
(2nd Sess.),
c. 12

R.S.O. 1980,
c. 452

Where rental
unit rented
for first time

99. The rent charged by a landlord for a rental unit when the unit is rented for the first time on or after the 29th day of July, 1975, shall be deemed to be the maximum rent for that unit as of the date it so becomes rented for the first time, except as otherwise provided in the regulations made under this Act.

Additional
charges
prohibited

100.—(1) No landlord, or any person acting on behalf of the landlord shall, directly or indirectly, in respect of any rental unit,

- (a) collect or attempt to collect from a tenant or prospective tenant of the rental unit any fee, premium, commission, bonus, penalty, key deposit or other like amount of money;
- (b) require or attempt to require a prospective tenant to pay any consideration for goods or services as a condition for granting the tenancy, in addition to the rent the tenant is lawfully required to pay to the landlord; or
- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord lawfully may charge for the rental unit.

Idem

(2) No tenant or any person acting on behalf of the tenant shall, directly or indirectly,

- (a) sublet a rental unit for a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;

- (b) sublet any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (c) collect or attempt to collect from any tenant or prospective tenant any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money, for subletting the rental unit or any portion thereof, for assigning a tenancy agreement for the rental unit or for otherwise parting with possession of the rental unit; or
- (d) require or attempt to require a prospective subtenant or assignee to pay any consideration for goods or services as a condition for the sublet or assignment in addition to the rent the subtenant or assignee is lawfully required to pay to the tenant or landlord.

PART VII

APPEALS

101.—(1) A landlord or a tenant directly affected by an order may, within thirty days of the giving of the order of the Minister, appeal any order of the Minister disposing of an application made under this Act, or an order made on the Minister's own motion, by filing a notice or notices of appeal in the prescribed form with the Board, together with any documents that the party appealing relies upon in support of the appeal and which were not filed with the Minister on the application.

Appeal from
order of
Minister

(2) The landlord and any tenant of a rental unit affected by an order made under section 87 or an order made pursuant to a joint application under section 89 may appeal the order jointly or individually.

Appeal of
part building
review order

(3) Where a notice of appeal is filed with the Board, a copy of the notice shall be given by the Board to the Minister who shall thereupon forward to the Board,

Record

- (a) the original or a true copy of the application or notice given under subsection 28 (1);
- (b) the original or a true copy of all documents and material filed in respect of the application or notice given under subsection 28 (1); and

- (c) a certified copy of the order appealed from together with the summary of reasons for the order.

Filing of documents, etc., by respondent

(4) Where any person has filed a notice of appeal, the other parties to the appeal shall, within thirty days of the filing of the notice of appeal, file with the Board the documents that the parties intend to rely upon at the hearing of the appeal and which were not filed with the Minister on the application or in response to a notice given under subsection 28 (1).

Notice to parties

(5) After receiving a notice of appeal under subsection (1), the Board shall give a notice to the parties stating the date, place and time when the appeal will be heard.

Issues may be heard together

(6) Where several different appeals have been made to the Board, and the Board is of the opinion that it would be appropriate to determine the issues raised by the appeals together, the Board may hear and determine the issues in dispute at a common hearing.

Issues may be heard separately

(7) Where the Board is of the opinion that it would be appropriate to deal with some of the issues raised by an appeal at separate hearings, the Board may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues.

Issues on appeal limited

102.—(1) On the hearing of an appeal, the issues will be limited to those raised in the initial application, or raised in a matter brought on by the Minister's own motion, unless the Board otherwise allows.

Agreement to further limit issues

(2) Where all the parties to an appeal agree in writing, the Board may further limit the issues of the appeal to those issues agreed upon by the parties.

Evidence

(3) On the hearing of the appeal, the Board shall hear any evidence that is relevant to the issues, whether or not the evidence was tendered or was available on the initial application.

Burden of proof

(4) On the hearing of the appeal, the burden of proof lies on the party who made the initial application, or in the case of an appeal from an order made on the Minister's own motion, on the party bringing the appeal.

Hearing by single member

103.—(1) Subject to subsection (2), an appeal shall be heard by a single member of the Board.

Hearing by panel of three Board members

(2) The chairman shall assign a panel of three members of the Board to hear an appeal where any party to the appeal

files a request in the prescribed form with the Board not later than thirty days after the day the notice of appeal is filed.

(3) Where, before the hearing of an appeal has commenced, a party to the appeal who has filed a request under subsection (2) files with the Board a withdrawal of the request in the prescribed form, the appeal may, with the consent of the Board, be heard by a single member of the Board.

Withdrawal
of request
for panel
of three
members of
the Board

104.—(1) Where any party to an appeal files a request therefor in the prescribed form with the Board or where the Board on its own initiative decides to do so, the Board may direct the parties to attend a pre-hearing conference, to be conducted by a single member of the Board, to discuss,

Pre-hearing
conference

- (a) the issues to be dealt with on the hearing of the appeal;
- (b) whether any person ought to be added or removed as a party to the appeal;
- (c) the rental units affected by the appeal;
- (d) where a request has been filed under subsection 103 (2), whether the appeal should be heard by one member or a panel of three members of the Board; and
- (e) any procedural matter that arises or may arise in connection with the appeal.

(2) The member of the Board who conducts the conference may make such written recommendations as he or she considers necessary or advisable arising out of the matters discussed at the conference and any such recommendations shall be placed on the Board's record file pertaining to the appeal.

Recommendations

(3) Any party to the appeal is entitled to examine the recommendations made under subsection (2) and may submit representations in respect thereof to the Board at the hearing of the appeal.

Examination
of
recommendations

(4) The member of the Board who conducts the pre-hearing conference shall not hear the appeal or be a member of the panel that hears the appeal.

Board
member not
to
hear appeal

(5) Notwithstanding subsection 105 (1), the *Statutory Powers Procedure Act* does not apply to a pre-hearing conference held under this section.

R.S.O. 1980,
c. 484 not
to apply

Application
of
R.S.O. 1980,
c. 484

105.—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Board in the exercise of a statutory power of decision.

Deemed
compliance

R.S.O. 1980,
c. 484

(2) The giving to a party of a copy of a notice of appeal to the Board shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*.

Procedure

106.—(1) Subject to the provisions of the *Statutory Powers Procedure Act*, and except as otherwise provided for by this Act, the Board may determine its own procedure for the conduct of hearings.

Policy
guidelines,
etc.,
available to
public

(2) All policy guidelines or rules of procedure made by the Board under subsection (1) for the conduct of hearings shall be made available for examination by the public.

Matters
Board
to consider

107.—(1) In addition to any material, evidence or information submitted to the Board on an appeal, in hearing any appeal, the Board may consider,

- (a) any matter the Minister was entitled to consider on the application;
- (b) any material and documents submitted to the Minister on the application; and
- (c) such other matters as it deems necessary or advisable for the purpose of dealing with the appeal.

Board may
investigate,
etc.

(2) The Board, in respect of any appeal, may,

- (a) conduct any enquiry or inspection of documents or premises that the Board considers necessary; and
- (b) question any person by telephone or otherwise.

Additional
material

108.—(1) The Board may direct any party to the appeal to file such additional material as the Board considers necessary and the other parties shall have an opportunity to examine the additional material and to explain or refute it.

Where
additional
material
not filed

(2) Where any party to the appeal fails to comply with a direction of the Board under subsection (1), the Board may,

- (a) in the case of the appellant, refuse to make an order allowing the appeal or that part of the appeal relating to the failure to comply with the direction; and

- (b) in the case of any other party to the appeal, refuse to take into account any representations made in respect of the matter regarding which there was a failure to comply with the direction.

109. At the hearing, the Board may question the parties who are in attendance and any witnesses with a view to determining the truth concerning the matters in dispute.

Board may question parties, etc

110. In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Other relevant information

111. Upon completion of a hearing, the Board shall by order,

Order of Board

- (a) affirm the order of the Minister;
- (b) vary the order of the Minister; or
- (c) substitute its own order for the order of the Minister.

and shall forthwith give a copy of the order to the parties to the appeal, together with reasons in writing for the order.

112. Where, within one year of the date of an order of the Board, the member, or panel of members, of the Board who made the order is of the opinion that a serious error has been made, the member or panel of members may, on the member's or panel's own motion, rehear any appeal and may affirm, rescind, amend or replace the order.

Power to rehear

113. An order of a Board member or an order of the majority of the members of a panel of Board members shall be deemed to be an order of the Board.

Order of member or majority of panel deemed order of Board

114. Where a member of a panel of Board members that is assigned to hear an appeal ceases for any reason to be a member of the Board,

Decisions by remaining members of panel of Board members

- (a) before the Board has made an order in respect of the appeal, the remaining two members of the panel may complete the hearing and make the order of the Board; or

- (b) after the Board has made an order in respect of the appeal, the remaining two members of the panel may, in the circumstances set out in section 112, decide to rehear the appeal and those two members, together with a third member appointed by the chairman may, after holding the rehearing, affirm, rescind, amend or replace the order,

but if the two members do not agree,

- (c) on the order to be made in the case mentioned in clause (a), the appeal shall be reheard before a new panel of Board members; or
- (d) on whether to rehear the appeal in the case mentioned in clause (b), a rehearing shall not be held.

Appeal to
Divisional
Court

115.—(1) Any party to an appeal under section 101 may, on a question of law, appeal an order of the Board to the Divisional Court.

Board
entitled to
be heard on
appeal

(2) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal under this section.

Power of
Divisional
Court on
appeal

(3) Where an appeal is brought under subsection (1), the Divisional Court shall hear and determine the appeal and may,

- (a) affirm, rescind, amend or replace the decision or order; or
- (b) remit the matter to the Board with the opinion of the Divisional Court,

and may make,

- (c) any other order in relation to the matter that it considers proper; and
- (d) any order, with respect to costs, that it considers proper.

Orders not
stayed
pending
appeal

116. An appeal from an order of the Minister or the Board does not stay the order pending the hearing of the appeal.

PART VIII

LICENSING OF RESIDENTIAL TENANCY CONSULTANTS

117.—(1) The Minister may grant upon payment of the prescribed fee a licence to every person whom the Minister, in accordance with the prescribed procedures and criteria, considers qualified to act as a residential tenancy consultant and in accordance with the prescribed procedures may refuse, suspend or revoke any such licence.

Licence as
residential
tenancy
consultant

(2) No person, for a fee, shall represent or appear as agent for a landlord or a tenant in any proceedings under this Act unless the person,

Licence
required

- (a) is licensed under this Part as a residential tenancy consultant; or
- (b) is exempted by the regulations from the requirement to be licensed under this Part.

(3) Any agreement that provides for the payment of a fee to a person, other than one who is licensed or exempt as mentioned in subsection (2), for representing or appearing as an agent for a landlord or a tenant in any proceedings under this Act is void.

Where
agreement to
pay void

PART IX

MISCELLANEOUS

118. The Lieutenant Governor in Council may make regulations,

Regulations

1. prescribing forms of applications to the Minister and material to be furnished in respect of the application;
2. prescribing the form of a notice of appeal to the Board;
3. prescribing procedural and interpretative rules and policies to be observed by the Minister and the Board in the interpretation and administration of this Act or when exercising any power or discretion conferred under this Act;
4. prescribing, for the purposes of clause 4 (3) (a), rental units to which this Act applies;

5. prescribing, for the purposes of section 5, the form of the notice of a rent increase;
6. prescribing, for the purposes of clause 13 (3) (d), matters of concern in respect of which the Minister may make a determination;
7. prescribing, for the purposes of subsection 21 (5), rules for the computation of time;
8. prescribing, the form of the notice mentioned in subsection 28 (1);
9. prescribing, for the purposes of subsection 33 (2), the form of a summary of reasons for an order of the Minister;
10. prescribing, for the purposes of section 53, fees for the furnishing of copies of forms, notices or documents;
11. prescribing, for the purposes of subsection 56 (1), the form of a request for information from the rent registry;
12. prescribing, for the purposes of subsection 56 (1), rules for limiting the information recorded in the rent registry that shall be furnished to any person on request;
13. prescribing, for the purposes of subsection 56 (2), fees for the furnishing of information from the rent registry;
14. prescribing, for the purposes of subsection 57 (1), the form of the statement to be filed in connection with the rent registry;
15. prescribing, for the purposes of clause 57 (2) (a), the date for filing a statement under subsection 57 (1);
16. prescribing, for the purposes of subsection 58 (1), other information to be set out in the statement filed under subsection 57 (1);
17. prescribing the percentage mentioned in subsections 59 (2) and (3);

18. prescribing, for the purposes of section 60, the form of notice to be given by the Minister in respect of information recorded in the rent registry;
19. prescribing, for the purposes of subsections 63 (4) and (5), the form of justification;
20. prescribing, for the purposes of subsection 74 (4), the form of a cost revenue statement;
21. prescribing, for the purposes of clause 75 (a) and clause 87 (1) (a), the operating cost allowance;
22. prescribing, for the purposes of clause 75 (d) and clause 87 (1) (c), the allowances for management and administration in respect of capital expenditures;
23. prescribing, for the purposes of clause 75 (j), matters in respect of which the Minister may make findings;
24. prescribing, for the purposes of clause 78 (1) (a), interest rates on capital expenditures;
25. prescribing, for the purposes of subsection 79 (7), interest rates to be allowed;
26. prescribing, for the purposes of paragraph 4 of subsection 82 (1), matters to be taken into account by the Minister;
27. prescribing, for the purposes of subsection 86 (3), the form of a capital cost revenue statement;
28. prescribing, for the purposes of subsection 91 (3), the form of a request for relief;
29. prescribing, for the purposes of subsection 91 (4), the criteria to be met to qualify for relief;
30. prescribing, for the purposes of subsection 91 (4), the terms of an agreement to be entered into under that subsection;
31. prescribing, for the purposes of section 92, the manner of phasing in amounts;

32. prescribing, for the purposes of subsection 93 (3), the manner of determining the period of time the maximum rent chargeable may not be increased;
33. prescribing, for the purposes of subsection 97 (3), separate charges which may be equalized immediately;
34. prescribing, for the purposes of subsection 97 (4), the manner in which the rent may be increased or decreased;
35. prescribing, for the purposes of section 99, the method of determining maximum rent;
36. prescribing persons or classes of persons that are exempt from the requirement to be licensed under Part VIII;
37. prescribing, for the purposes of subsection 117 (1), criteria for licensing a person as a residential tenancy consultant;
38. prescribing, for the purposes of subsection 117 (1), fees for licences under Part VIII;
39. prescribing, for the purposes of subsection 117 (1), procedures to be followed where a licence is proposed to be refused, suspended or revoked;
40. prescribing, for the purposes of subsection 121 (1), the allowed amount of a contingency fee;
41. prescribing, for the purposes of constructing the Building Operating Cost Index, the Table setting out the weighting and components thereof;
42. defining any word or expression used in this Act that has not already been expressly defined in this Act;
43. prescribing anything that by this Act is to be or may be prescribed.

Substantial
compliance
with forms,
etc.,
sufficient

119. Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Minister or the Board, as the case may be, is of the opinion that it would result in unfairness to any person.

120. Any person may seek to secure and enforce the rights established by this Act and may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act.

Enforcement of rights and participation in organization

121.—(1) No agent who represents a landlord or a tenant in any proceedings under this Act or who assists a landlord or tenant in any matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved in part or in whole through the efforts of the agent, where the proportion exceeds the prescribed amount.

Contingency fee limited

(2) Any agreement which provides for a fee prohibited in subsection (1) is void.

Contingency agreement void

122.—(1) Any person who knowingly,

Offences

- (a) fails to obey an order of the Minister or the Board;
- (b) furnishes false or misleading information in any application, document, written representation or statement to the Minister under this Act or in any proceedings before the Board;
- (c) increases the rent charged for a rental unit where less than twelve months has elapsed since the date of the last rent increase;
- (d) increases the rent charged for a rental unit by more than the amount referred to in section 71 unless authorized by the Minister or the Board to do so;
- (e) charges a higher rent for a rental unit than that permitted under an order of the Minister or the Board;
- (f) charges an amount that is in contravention of section 100;
- (g) fails to file with the Minister the statement required under section 57, in respect of the rent registry; or
- (h) charges or takes a fee that is in contravention of subsection 121 (1),

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Where
corporation
convicted

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

Limitation

(3) Proceedings shall not be commenced, in respect of an offence under subsection (1), after one year after the date on which the offence was, or is alleged to have been, committed.

Monetary
sums
rounded
to nearest
dollar

123. Wherever under this Act a sum of money is required or permitted to be set out or expressed, the sum may be rounded to the nearest dollar and set out or expressed accordingly.

Proof of
documents,
etc.

124. In any prosecution for an offence under this Act, the production of any certificate, statement or document given to the Minister or to the Board under this Act or the regulations thereunder, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by such person or on such person's behalf, shall be received as *prima facie* proof that such certificate, statement or document was filed or delivered by or on behalf of that person or was made or signed by that person or on that person's behalf.

Moneys

125. The moneys required for administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

126.—(1) Clauses 134 (1) (c) and (d) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection (1) shall be deemed to have come into force on the 1st day of August, 1985.

127. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134 (1) (a), (b), (f) and (g), subsections 134 (2) and (3) and subsection 135 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

128. Section 7 of the *Residential Complexes Financing Costs Restraint Act*, 1982, as amended by the Statutes of Ontario, 1983, chapter 69, section 4, 1984, chapter 65, section 1 and 1985, chapter 15, section 4, is repealed and the following substituted therefor:

Repeal

7.—(1) This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

(2) Despite subsection (1), this Act continues in force for the purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential Tenancies Act* on or before the day immediately preceding the day on which this Act is repealed by proclamation of the Lieutenant Governor and not finally disposed of by the Commission on or before that day, and to appeals therefrom.

Saving

R.S.O. 1980,
c. 452

129.—(1) Notwithstanding the repeal of the provisions mentioned in section 127, those provisions shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters:

Certain provisions deemed continued in force for certain purposes

1. An application made under the *Residential Tenancies Act* before the day this section comes into force.
2. An appeal of an order made under the *Residential Tenancies Act*.
3. A court proceeding commenced before the day this section comes into force to which the Residential Tenancy Commission is a party.
4. A court proceeding mentioned in subsection 84 (4) of the *Residential Tenancies Act* commenced before the day this section comes into force.

R.S.O. 1980,
c. 452

(2) An application under the *Residential Tenancies Act* made before the day this section comes into force may, at any time before the hearing of the application has commenced, at the written election of the applicant, be continued and finally disposed of as an application made under the corresponding provisions of this Act.

Election to proceed under this Act
R.S.O. 1980,
c. 452

(3) For the purposes only of subsection (1), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until the expiration of the term of appointment or a day to be named by proclamation of the Lieutenant Governor, whichever is earlier.

Residential Tenancy Commission continued for certain purposes
R.S.O. 1980,
c. 452

Where
appeal may
be heard
before single
Appeal
Commis-
sioner

(4) Notwithstanding subsection 117 (7) of the *Residential Tenancies Act*, an appeal from an order made under subsection 129 (2) of that Act may be heard before a single Appeal Commissioner, who need not be a member of the Board of Commissioners.

Commence-
ment

130.—(1) This Act, except subsection 71 (1) and section 128, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 128 comes into force on the day this Act receives Royal Assent.

Idem

(3) Subsection 71 (1) shall be deemed to have come into force on the 1st day of August, 1985.

Short title

131. The short title of this Act is the *Residential Rent Regulation Act, 1986*.

SCHEDULE A

(Clause 71 (1) (b))

The formula for calculating the Residential Complex Cost Index for the purposes of clause 71 (1) (b) is the greater of,

(a) 2 per cent; or

(b) 2 per cent plus $\frac{2}{3}$ of the percentage increase in the three-year moving average of the Building Operating Cost Index, rounded to the nearest $\frac{1}{10}$ th of 1 per cent.

The Building Operating Cost Index shall be constructed in accordance with the weighting and components set out in the prescribed Table, with the weighting adjusted annually in relation to changes, based on a three-year moving average, in the components.

SCHEDULE B

(Clauses 75 (a) and 87 (1) (a))

The formula for calculating the operating cost allowance for the purposes of clauses 75 (a) and 87 (1) (a) is,

Operating Cost Allowance = Residential Complex Cost Index less 1 percentage point X the gross potential rent for the residential complex for the month immediately preceding the effective date of the first rent increase applied for X 12.

Bill 52

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Pierce

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

This Bill amends the *Health Protection and Promotion Act, 1983* to require physicians, nurses and pharmacists to report to their local medical officer of health any cases they encounter of severe reaction to the DPT vaccine given to infants and small children to protect them against diphtheria, pertussis and tetanus.

Bill 52

1986

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:

37a.—(1) In this section, a “severe reaction” includes, but is not limited to, persistent crying or screaming, shock or collapse, convulsions, high fever and temporary or permanent brain damage.

Interpretation

(2) A physician or a person registered under Part IV or VI of the *Health Disciplines Act* to practise nursing or pharmacy who, while providing professional services to a child who has been immunized against diphtheria, pertussis and tetanus, forms the opinion that the child is suffering or has suffered from a severe reaction to the immunization shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to
report
reactions to
immunization
R.S.O. 1980,
c. 196

2. Subsection 38 (1) of the said Act is amended by striking out “or a virulent disease” in the fifth line and inserting in lieu thereof “a virulent disease or a severe reaction to an immunization against diphtheria, pertussis and tetanus”.

3. Subsection 99 (2) of the said Act is amended by striking out “or” in the second line and by inserting after “disease” in the third line “or a severe reaction to an immunization against diphtheria, pertussis and tetanus”.

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1986*.

Short title

Bill 53

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to clarify that the *Labour Relations Act* applies to employees who are engaged in agricultural employment in an industrial or factory setting. Clause 2 (b) of the Act currently states that the Act does not apply "to a person employed in agriculture". This provision has been interpreted broadly by the Ontario Labour Relations Board to exclude from the Act persons whose employment relates to agriculture but who are employed in organizations that resemble industrial plants.

Bill 53**1986****An Act to amend the Labour Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 2 (b) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) to a person employed in agriculture on a farm by a person who is a farmer;

(ba) to a person employed in hunting or trapping.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1986*. Short title

Bill 54

An Act to Authorize and Regulate the Payment by the Minister to Specified Persons on Behalf of Specified Classes of Persons for the Dispensing of Specified Drugs

The Hon. M. Elston

Minister of Health

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

This Act provides a legislative framework for the Ontario Drug Benefit Plan, under which the Minister pays operators of pharmacies, physicians and suppliers of substances for supplying prescription drugs and substances free of charge for certain classes of persons, including senior citizens and welfare recipients. The Plan is now governed by agreements with the Minister.

The Act gives broad discretion to the Lieutenant Governor in Council to make regulations concerning,

- (a) what prescription drugs and substances are to be listed under the Act;
- (b) who is to be eligible for the benefits under the Act;
- (c) how much the Minister will pay for the supplying of drugs and substances under the Act; and
- (d) what charges, if any, may be made directly to eligible persons.

The discretion under clause (c) above, allows for setting different amounts for different drug products, suppliers or eligible persons.

The Act provides that subject to the regulations, operators of pharmacies and physicians may charge the Minister, but no one else, when they supply listed drugs for eligible persons. There is provision for the Minister to agree in writing with an operator to pay an amount different from that in the regulations. The Minister is given discretion, if a physician says it is necessary, to allow a non-listed drug supplied for a particular eligible person to be treated as if it were a listed drug.

The Minister is authorized to enter into agreements to pay for the supplying of substances other than drugs (e.g. oxygen) on behalf of eligible persons. An amending provision of the Act, which would not take effect until a later date, to be proclaimed, repeals that authorization and treats acceptable persons supplying listed substances in the same way as operators dispensing listed drugs. The Lieutenant Governor in Council has discretion to set criteria of acceptability.

The Lieutenant Governor in Council is authorized to require reports respecting the cost of purchasing drugs from operators of pharmacies. The Minister is authorized to inspect the records of operators to insure the accuracy of information required to be provided.

Offences are created for contravening a provision of the Act or regulations and maximum penalties of \$10,000 for an individual and \$50,000 for a corporation are imposed.

Bill 54

1986

**An Act to Authorize and Regulate the
Payment by the Minister to Specified Persons
on Behalf of Specified Classes of Persons for the
Dispensing of Specified Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 9;

“listed drug” means a drug designated as a listed drug;

“listed substance” means a substance, other than a drug, designated as a listed substance;

“Minister” means the Minister of Health;

“operator of a pharmacy” means,

(a) the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*, or

(b) the operator of a pharmacy operated in or by a hospital that is a public hospital under the *Public Hospitals Act*;

R.S.O. 1980,
c. 410

“physician” means a person licensed to engage in the practice of medicine under Part III of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a

health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“regulations” means the regulations made under this Act.

Eligible persons

2.—(1) A person who is a member of a designated class of persons is an eligible person.

Persons deemed eligible persons

R.S.O. 1980, c. 151

Application of this Act

R.S.O. 1980, c. 197

(2) This Act applies to persons entitled to receive drug benefits under the *Family Benefits Act* and the regulations under it as if those persons were eligible persons.

3. This Act applies in respect of the supplying of listed drugs for eligible persons unless that supplying is an insured service as defined in the *Health Insurance Act*.

Billing prohibited

4.—(1) No operator of a pharmacy shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug for an eligible person pursuant to a prescription, unless the charge or payment is authorized by the regulations.

Idem

(2) No physician shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug for an eligible person, unless the charge or payment is authorized by the regulations.

Payment of claim of operator

5.—(1) An operator of a pharmacy who submits to the Minister a claim for payment in respect of supplying a listed drug for an eligible person pursuant to a prescription is entitled to be paid by the Minister the amount provided for by the regulations.

Agreement re price

(2) The Minister may pay an operator of a pharmacy an amount different from the amount provided for by the regulations in respect of a claim under subsection (1) if the Minister has a written agreement to that effect with the operator.

Payment of claim of physician

(3) A physician who submits to the Minister a claim for payment in respect of supplying a listed drug for an eligible person is entitled to be paid by the Minister the amount provided for by the regulations.

Information in claim

(4) The person submitting a claim under subsection (1) or (3) shall include in it the information prescribed by the regulations.

Unlisted drugs, special case

6.—(1) If a physician informs the Minister that the proper treatment of a patient who is an eligible person requires the

administration of a drug that is not a listed drug, the Minister may make this Act apply in respect of the supplying of that drug as if it were a listed drug by so notifying the physician.

(2) An operator of a pharmacy is not liable for contravening this Act or the regulations in respect of supplying a drug referred to in subsection (1) unless the operator has received notice that this Act applies to that supplying. Notice to operator

7.—(1) The Minister may make an agreement with a supplier of a listed substance, providing for payment of a specified amount for supplying the listed substance to an eligible person under the direction of a physician. Agreement re listed substance

(2) Except as the agreement authorizes, the supplier shall not charge, or accept payment from, any person other than the Minister for supplying the listed substance to an eligible person under the direction of a physician. Supplier not to charge

8. No operator of a pharmacy shall refuse to supply a listed drug for an eligible person in order to avoid the operation of a provision of this Act. Refusal to dispense prohibited

9.—(1) The Minister may appoint inspectors for the purposes of this section. Inspectors

(2) An inspector or any person acting under the inspector's instructions may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy or a physician, if the records may be relevant to determine the accuracy and completeness of any information required to be submitted under this Act or the regulations. Examine books

(3) A person carrying out an inspection may, upon giving a receipt therefor, take away a record for the purpose of making a copy, but the copy shall be made with reasonable dispatch and the record shall be promptly thereafter returned. Copies

(4) An inspector or a person acting under the inspector's instructions may at any reasonable time, on producing proper identification, enter business premises where the inspector or person believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

10.—(1) A person who, Offence

(a) contravenes section 4 (charges a person other than the Minister);

- (b) contravenes subsection 7 (2) (supplier charges contrary to agreement);
- (c) contravenes section 8 (refuses to dispense);
- (d) refuses to submit information or knowingly furnishes false or incomplete information required to be submitted under this Act or the regulations; or
- (e) obstructs a person carrying out an inspection under section 9,

and any director, officer, employee or agent of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and on conviction is liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

11.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating eligible classes of persons for the purposes of section 2;
- (b) designating drugs as listed drugs;
- (c) designating substances other than drugs that are listed substances;
- (d) authorizing the charges that are permitted under section 4;
- (e) prescribing the information to be included in a claim under subsection 5 (4);
- (f) respecting the amounts payable by the Minister under section 5;
- (g) requiring operators of pharmacies to file reports to the Minister concerning the cost to them of purchasing any drugs and prescribing the information to be included in such reports and the frequency with which such reports are to be made;
- (h) requiring operators of pharmacies and physicians to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained;

- (i) respecting any matter considered necessary or advisable to carry out the intent and purposes of this Act.

(2) A regulation made under clause (1) (f) may,

Idem

- (a) provide for a specified amount, provide one or more methods for determining the amount or authorize the Minister to determine the amount payable in respect of each drug or drug product; and

- (b) provide for a specified amount or provide a method for determining a fee or allowance for dispensing a drug.

(3) A regulation made under clause (1) (f) may establish classes of operators of pharmacies, physicians, suppliers of listed substances and eligible persons and provide for an amount payable under subsection (2) in respect of each class.

Idem

(4) A regulation made under this section may be general or particular in its application.

Idem

(5) A regulation is, if it so provides, effective with reference to a period before it is filed.

Retroactive

12.—(1) Section 7 is repealed and the following substituted therefor:

s. 7.
re-enacted

7. This Act and the regulations apply to a supplier of a listed substance who meets the criteria prescribed in the regulations in respect of the supplying of the substance to an eligible person under the direction of a physician as if the supplier was an operator of a pharmacy and the substance was a listed drug.

Payment for
substance

(2) Clause 10 (1) (b) is repealed.

s. 10 (1) (b).
repealed

(3) Subsection 11 (1) is amended by adding thereto the following clause:

s. 11 (1).
amended

- (fa) prescribing criteria for the purposes of section 7 (application of Act to supplier).

13. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

14. The short title of this Act is the *Ontario Drug Benefit Act, 1986*.

Short title

Bill 54

An Act to Authorize and Regulate the Payment by the Minister to Specified Persons on Behalf of Specified Classes of Persons for the Dispensing of Specified Drugs

The Hon. M. Elston
Minister of Health

1st Reading April 22nd, 1986

2nd Reading April 22nd, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

This Act provides a legislative framework for the Ontario Drug Benefit Plan, under which the Minister pays operators of pharmacies, physicians and suppliers of substances for supplying prescription drugs and substances free of charge for certain classes of persons, including senior citizens and welfare recipients. The Plan is now governed by agreements with the Minister.

The Lieutenant Governor in Council is given broad discretion to make regulations concerning who is to be eligible for the benefits under the Act.

Manufacturers of drug products who wish their products to be listed are required to supply the same quantity of the same dosage form and strength of the products for the same price to all purchasers in Ontario other than those purchasing for hospital patients and provide to the Minister the prescribed information. The Lieutenant Governor in Council may prescribe additional conditions for listing.

The amount that the Minister is to pay operators of pharmacies for supplying listed drugs is based on the best available price of the drug product dispensed, a prescribed percentage of that best available price and in most cases, a dispensing fee equal to the lesser of the dispensing fee determined under section 7 and the operator's usual and customary dispensing fee as determined under the *Prescription Drug Cost Regulation Act, 1986*. Section 7 provides a mechanism for negotiating a dispensing fee. In the event that the negotiations fail, that dispensing fee is to be determined by the Lieutenant Governor in Council by regulation. There will be no dispensing fee for designated over the counter drugs and the dispensing fee for pharmacies in public hospitals will be prescribed by the regulations.

The amount that the Minister is to pay physicians for supplying listed drug products is to be prescribed by the regulations.

Subject to the regulations, operators of pharmacies and physicians may charge the Minister, but no one else, when they supply listed drugs for eligible persons. The Minister is given discretion, if a physician says it is necessary, to allow a non-listed drug product to be treated as if it were listed.

The Minister is authorized to enter into agreements to pay for the supplying of substances other than drugs (e.g. oxygen) on behalf of eligible persons.

Operators of pharmacies may elect not to accept payment under the Plan from the Minister, but if they do so they may not supply listed drug products to eligible persons.

The Lieutenant Governor in Council is authorized to require reports respecting the cost of drugs from operators of pharmacies and drug wholesalers and manufacturers. The Minister is authorized to inspect the records of operators of pharmacies and wholesalers and manufacturers of drugs to insure compliance with the Act.

Offences are created for contravening a provision of the Act or regulations and maximum penalties are imposed of \$5,000 for a first offence and \$10,000 for subsequent offences. The maximum fine for a corporation may be \$50,000.

Bill 54

1986

**An Act to Authorize and Regulate the
Payment by the Minister to Specified Persons
on Behalf of Specified Classes of Persons for the
Dispensing of Specified Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 14;

“listed drug product” means a drug or combination of drugs identified by a specific product name or manufacturer and designated as a listed drug product;

“listed substance” means a substance, other than a drug, designated as a listed substance;

“Minister” means the Minister of Health;

“operator of a pharmacy” means,

- (a) the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*, or
- (b) the operator of a pharmacy operated in or by a hospital that is a public hospital under the *Public Hospitals Act*;

R.S.O. 1980,
c. 410

“physician” means a person licensed to engage in the practice of medicine under Part III of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“regulations” means the regulations made under this Act.

Eligible persons

2.—(1) A person who is a member of a designated class of persons is an eligible person.

Persons deemed eligible persons
R.S.O. 1980, c. 151

(2) This Act applies to persons entitled to receive drug benefits under the *Family Benefits Act* and the regulations under it as if those persons were eligible persons.

Application of this Act

R.S.O. 1980, c. 197

3. This Act applies in respect of the supplying of listed drug products for eligible persons unless that supplying is an insured service as defined in the *Health Insurance Act*.


Billing prohibited

4.—(1) No operator of a pharmacy shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person pursuant to a prescription, unless the charge or payment is authorized by the regulations.

Idem

(2) No physician shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person, unless the charge or payment is authorized by the regulations.

Exception

(3) Subsections (1) and (2) do not apply to an operator of a pharmacy or a physician who supplies a listed drug product for an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person. 

Payment of claim of operator

5.—(1) An operator of a pharmacy who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person pursuant to a prescription is entitled to be paid by the Minister the amount provided for under section 6.

Agreement re price

(2) The Minister may pay an operator of a pharmacy an amount different from the amount provided for under section 6 in respect of a claim under subsection (1) if the Minister has a written agreement to that effect with the operator.

Payment of claim of physician

(3) A physician who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person is entitled to be paid by the Minister the amount provided for by the regulations.

(4) The person submitting a claim under subsection (1) or (3) shall include in it the information prescribed by the regulations.

Information
in claim

(5) Eligible persons shall be deemed to have authorized persons submitting claims under subsection (1) or (3) to include in the claims the information mentioned in subsection (4).

Deemed
authorization

6.—(1) The amount the Minister shall pay under subsection 5 (1) in respect of a listed drug product is the sum of the dispensing fee referred to in subsection (2) and the amount provided for by the regulations.

Amount
Minister
to pay

(2) The dispensing fee the Minister shall pay to operators of pharmacies under subsection (1) for dispensing listed drug products for eligible persons shall be,

Dispensing
fee

(a) where the pharmacy is operated in a hospital approved as a public hospital under the *Public Hospitals Act*, the amount prescribed by the regulations;

R.S.O. 1980,
c. 410

(b) where the listed drug product does not require a prescription for sale and is designated as one to which this clause applies, no dispensing fee; and

(c) in all other cases, the lesser of,

(i) the amount determined under section 7, or

(ii) the amount the operator charges under subsection 6 (1) of the *Prescription Drug Cost Regulation Act, 1986* (usual and customary dispensing fee).

1986, c.

(3) Despite subsection (1), where the Minister is satisfied that an operator of a pharmacy was not reasonably able to purchase any listed drug product of a drug at a price less than or equal to the amount provided for by the regulations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the cost to the operator of purchasing the least expensive listed drug product of the drug that is in the operator's inventory.

Exception

(4) Despite subsection (1), where a prescription includes a direction that there be no substitutions and the Minister is satisfied that the operator of the pharmacy was not reasonably able to purchase the listed drug product prescribed at a price less than or equal to the amount provided for by the regu-

Idem

- 1986, c. ... lations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the price designated under subsection 7 (1) of the *Prescription Drug Cost Regulation Act, 1986* as the best available price for that product.
- Idem (5) For the purpose of subsection (3), the cost to the operator of a pharmacy of purchasing a listed drug product shall be calculated in the manner provided for by the regulations.
- Definition **7.—**(1) In this section, "Association" means the Ontario Pharmacists Association.
- Determination of dispensing fee (2) The Minister and the Association may by agreement, with or without referring the matter to a fee negotiating committee, determine the dispensing fee the Minister shall pay to operators of pharmacies under subsection 6 (2).
- Idem (3) An agreement made under subsection (2) may establish classes of operators of pharmacies and provide for an amount payable in respect of each class.
- Fee negotiating committee (4) There may be established from time to time as provided under subsection (6) a fee negotiating committee to be composed of,
- (a) three voting members appointed by the Minister;
 - (b) three voting members appointed by the Association; and
 - (c) a chairman, who shall not have a vote, to be appointed jointly by the Minister and the Association.
- Remuneration of chairman (5) The remuneration and expenses of the chairman shall be paid for by the Ministry of Health.
- Mandatory negotiation (6) The Minister or the Association may, by notice in writing to the other, require that negotiation of the dispensing fee be conducted by a fee negotiating committee.
- Appointment of committee (7) Not later than seven days after the notice has been received, the Minister and the Association shall each appoint three persons to serve as members of the fee negotiating committee and shall jointly appoint a chairman of the committee.
- Negotiation (8) The committee shall begin its negotiations as soon as reasonably possible on a date to be named by the chairman.

(9) If, after both sides on the committee have negotiated in good faith, the Minister or the Association believes that the committee's negotiations have reached an impasse, that person, by written notice to the chairman and the other person, may request that the chairman recommend a dispensing fee to the committee.

Negotiations
at impasse

(10) The chairman may obtain and use any relevant information that the chairman believes may be useful in formulating the recommendation.

Chairman's
recommendation

(11) The chairman shall recommend a dispensing fee to the committee within thirty days after being requested to do so and shall provide the committee with the information upon which the recommendation was based.

Idem

(12) The committee shall resume its negotiations within seven days after receiving the chairman's recommendation.

Negotiations
resume

(13) At any time after the committee resumes its negotiations under subsection (12), the Minister or the Association may make public the recommendation and the information upon which it was based, after first giving the other person twenty-four hours written notice of the intention to do so.

Recommendations made
public

(14) If, after both sides on the committee have resumed negotiations in good faith, the Minister or the Association believes that the committee's negotiations have again reached an impasse, that person, by written notice to the chairman and the other person, may terminate the negotiations.

Terminate
negotiations

(15) If, at any time in the negotiating process, a majority of the committee, including at least two persons appointed by the Minister and at least two persons appointed by the Association, agree on the appropriate dispensing fee, the chairman on behalf of the committee shall submit that dispensing fee to the Minister and to the Association as the committee's proposed dispensing fee.

Committee
agreement

(16) The Minister and the Association shall in writing notify each other of their acceptance or rejection of the committee's proposed dispensing fee within fourteen days after receiving it.

Notice of
acceptance

(17) If the Minister or the Association rejects the committee's proposed dispensing fee, the committee shall resume its negotiations within seven days thereafter and this section applies as if the committee had not proposed a dispensing fee.


Rejection of
proposed
dispensing
fee

Dispensing
fee

(18) The dispensing fee for the purpose of subsection 6 (2) shall be,

- (a) if the Minister and the Association both accept the committee's proposed dispensing fee, the dispensing fee proposed;
- (b) if the Minister and the Association otherwise agree to a dispensing fee, the dispensing fee agreed upon; or
- (c) in all other cases, the dispensing fee provided for by the regulations.

Agreement

(19) The Minister and the Association may enter into a written agreement respecting any aspect of the negotiation of the dispensing fee, and in the event of a conflict between a provision of the agreement and a provision of this section, the agreement prevails. 

Unlisted
drugs,
special case

8.—(1) If a physician informs the Minister that the proper treatment of a patient who is an eligible person requires the administration of a drug for which there is not a listed drug product, the Minister may make this Act apply in respect of the supplying of that drug as if it were a listed drug product by so notifying the physician.


Notice to
operator

(2) An operator of a pharmacy is not liable for contravening this Act or the regulations in respect of supplying a drug referred to in subsection (1) unless the operator has received notice from the physician or from the Minister that this Act applies to that supplying.


Agreement
re listed
substance

2.—(1) The Minister may make an agreement with a supplier of a listed substance, providing for payment of a specified amount for supplying the listed substance to an eligible person under the direction of a physician.

Supplier
not to
charge

(2) Except as the agreement authorizes, the supplier shall not charge, or accept payment from, any person other than the Minister for supplying the listed substance to an eligible person under the direction of a physician. 

Exception

(3) Subsection (2) does not apply to a supplier of a listed substance who supplies the listed substance to an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person. 

Refusal to
dispense
prohibited

10. No operator of a pharmacy shall refuse to supply a listed drug product for an eligible person in order to avoid the

operation of a provision of this Act but an operator may refuse to supply a listed drug product for an eligible person if the proper exercise of professional judgment so requires.

11.—(1) An operator of a pharmacy may notify the Minister that the operator elects not to accept payment from the Minister under section 5. Opting out

(2) Beginning ninety days after the day the Minister receives the notice under subsection (1), the operator is not entitled to payment from the Minister under section 5 and is not required to supply listed drug products for eligible persons under section 10. Idem

12. The Minister may consult with persons or organizations representing eligible persons, manufacturers of listed drug products, operators of pharmacies, physicians and suppliers of listed substances with respect to the amounts payable by the Minister and other matters of mutual concern arising out of this Act and the regulations. Minister to consult

13.—(1) No person who administers this Act or the regulations shall disclose any information about an eligible person or about the supplying of listed drug products to an eligible person. Confidentiality


(2) Subsection (1) does not apply to the disclosure of information, Exception

(a) to the person's counsel;

(b) with the consent of the eligible person;

(c) in connection with the administration of this Act, the *Prescription Drug Cost Regulation Act, 1986*, the *Health Disciplines Act*, the *Health Insurance Act*, the *Ministry of Health Act*, any other Act administered by the Minister of Health, the *Coroners Act*, the *Provincial Offences Act* or the *Criminal Code* (Canada), or any regulations made thereunder; 1986, c.
R.S.O. 1980,
cc. 196, 197,
280, 93, 400

R.S.C. 1970,
c. C-34

(d) if the communication does not disclose the identity of a drug that was prescribed or supplied for an identified eligible person. 

14.—(1) The Minister may appoint inspectors for the purposes of this section. Inspectors

Examine
books

➡ (2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy or a physician, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of the operator or physician or of information they are required to submit under this Act or the regulations, or in determining whether they have complied with this Act and the regulations.

Idem

(3) An inspector may examine records, in whatever form, in the possession or under the control of a wholesaler or manufacturer, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of an operator of a pharmacy or physician or in determining whether the wholesaler or manufacturer have complied with this Act and the regulations.

Copies

(4) In carrying out an inspection under subsection (2), the inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible.

Idem

(5) In carrying out an inspection under subsection (3), the inspector may, upon giving a receipt therefor, take away a sales record or a marketing record or both for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. ➡

Entry

(6) An inspector may at any reasonable time, on producing proper identification, enter business premises where the inspector believes a record referred to in subsection (2) or (3) may be located for the purpose of an inspection.

Offence

15.—(1) A person who,

- (a) contravenes section 4 (charges a person other than the Minister);
- (b) contravenes subsection 9 (2) (supplier charges contrary to agreement);
- (c) contravenes section 10 (refuses to dispense);
- (d) refuses to submit information or knowingly furnishes false or incomplete information required to be submitted under this Act or the regulations; or

- (e) obstructs a person carrying out an inspection under section 14,

and any director or officer of a corporation who authorizes or permits such a contravention by the corporation, is guilty of an offence and on conviction is liable to a penalty of not more than \$5,000 for a first offence and \$10,000 for a second and subsequent offence.

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1). Idem

16.—(1) A manufacturer of a drug product that is designated or being considered for designation as a listed drug product shall, Conditions for listing

- (a) supply that drug product for the same price to all purchasers in Ontario, other than public hospitals purchasing solely for use in the treatment of patients and out-patients in the hospital, where the purchasers purchase the same quantity of individual units of the drug product in the same dosage form and strength; and
- (b) give to the Minister, on request, the information prescribed by the regulations concerning the production and sale of the drug product.

(2) Where a manufacturer of a drug product contravenes this section or obstructs a person carrying out an inspection under section 14, the Lieutenant Governor in Council may refuse to designate the drug product as a listed drug product, or, where it is already so designated, may remove that designation. Idem

17.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating eligible classes of persons for the purposes of section 2;
- (b) prescribing conditions to be met by products or by manufacturers of products in order for the products to be eligible for designation as listed drug products;
- (c) designating a product as a listed drug product where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be so designated if it or its manufac-

turer has not met the conditions described in clause (b);

- (d) designating substances other than drugs that are listed substances;
- (e) authorizing the charges that are permitted under section 4;
- (f) prescribing the information to be included in a claim under subsection 5 (4);
- (g) respecting the amounts payable by the Minister under section 5;
- (h) requiring operators of pharmacies and manufacturers and wholesalers of listed drug products to file reports to the Minister concerning the cost to operators of pharmacies and wholesalers of purchasing any drugs and prescribing the information to be included in such reports and the frequency with which such reports are to be made;
- (i) requiring operators of pharmacies and physicians to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained;
- (j) prescribing the manner of calculating the cost to an operator of a pharmacy of purchasing a listed drug product for the purpose of subsection 6 (3);
- (k) designating listed drug products that do not require a prescription for sale for the purpose of clause 6 (2) (b);
- (l) respecting any matter considered necessary or advisable to carry out the intent and purposes of this Act.

Idem

(2) In determining the amounts payable by the Minister under subsections 5 (1) and (2), the Lieutenant Governor in Council shall ascertain and prescribe from time to time the best available price of the drug and prescribe a percentage of the best available price, not less than 10 per cent nor greater than 20 per cent, to be added to it.

Idem

(3) Where the Lieutenant Governor in Council is prescribing the best available price of a drug under subsection (2) and the drug is an interchangeable product, as defined in the

Prescription Drug Cost Regulation Act, 1986. the amount prescribed shall be the best available price of the least expensive product that is interchangeable with it. 1986. c

(4) In determining the best available price for a drug, no account shall be taken of a purchase of the drug for use solely in the treatment of hospital patients and out-patients. Idem

(5) In this section, "best available price" for a drug in a particular dosage form and strength, means the lowest amount, calculated per gram, milliliter, capsule or other appropriate unit, for which that drug in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario and in calculating that amount, the Lieutenant Governor in Council shall deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. Best available price

(6) Subsection (2) does not apply in respect of listed drug products designated by the regulations for the purpose of clause 6 (2) (b). Exception

(7) A regulation made under this section may be general or particular in its application. Regulations

(8) A regulation is, if it so provides, effective with reference to a period before it is filed. Retroactive

18. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

19. The short title of this Act is the *Ontario Drug Benefit Act, 1986.* Short title

Bill 54

An Act to Authorize and Regulate the Payment by the Minister to Specified Persons on Behalf of Specified Classes of Persons for the Dispensing of Specified Drugs

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

This Act provides a legislative framework for the Ontario Drug Benefit Plan, under which the Minister pays operators of pharmacies, physicians and suppliers of substances for supplying prescription drugs and substances free of charge for certain classes of persons, including senior citizens and welfare recipients. The Plan is now governed by agreements with the Minister.

The Lieutenant Governor in Council is given broad discretion to make regulations concerning who is to be eligible for the benefits under the Act.

Manufacturers of drug products who wish their products to be listed are required to supply the same quantity of the same dosage form and strength of the products for the same price to all purchasers in Ontario other than those purchasing for hospital patients and provide to the Minister the prescribed information. The Lieutenant Governor in Council may prescribe additional conditions for listing.

The amount that the Minister is to pay operators of pharmacies for supplying listed drugs is based on the best available price of the drug product dispensed, a prescribed percentage of that best available price and in most cases, a dispensing fee equal to the lesser of the dispensing fee determined under section 7 and the operator's usual and customary dispensing fee as determined under the *Prescription Drug Cost Regulation Act, 1986*. Section 7 provides a mechanism for negotiating a dispensing fee. In the event that the negotiations fail, that dispensing fee is to be determined by the Lieutenant Governor in Council by regulation. There will be no dispensing fee for designated over the counter drugs and the dispensing fee for pharmacies in public hospitals will be prescribed by the regulations.

The amount that the Minister is to pay physicians for supplying listed drug products is to be prescribed by the regulations.

Subject to the regulations, operators of pharmacies and physicians may charge the Minister, but no one else, when they supply listed drugs for eligible persons. The Minister is given discretion, if a physician says it is necessary, to allow a non-listed drug product to be treated as if it were listed.

The Minister is authorized to enter into agreements to pay for the supplying of substances other than drugs (e.g. oxygen) on behalf of eligible persons.

Operators of pharmacies may elect not to accept payment under the Plan from the Minister, but if they do so they may not supply listed drug products to eligible persons.

The Lieutenant Governor in Council is authorized to require reports respecting the cost of drugs from operators of pharmacies and drug wholesalers and manufacturers. The Minister is authorized to inspect the records of operators of pharmacies and wholesalers and manufacturers of drugs to insure compliance with the Act.

The Act will also apply to designated pharmaceutical products. (See section 17).

Offences are created for contravening a provision of the Act or regulations and maximum penalties are imposed of \$5,000 for a first offence and \$10,000 for subsequent offences. The maximum fine for a corporation may be \$50,000.

Bill 54

1986

**An Act to Authorize and Regulate the
Payment by the Minister to Specified Persons
on Behalf of Specified Classes of Persons for the
Dispensing of Specified Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"designated" means designated by the regulations;

"drug" means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196.

"inspector" means a person appointed under section 14;

"listed drug product" means a drug or combination of drugs identified by a specific product name or manufacturer and designated as a listed drug product;

"listed substance" means a substance, other than a drug, designated as a listed substance;

"Minister" means the Minister of Health;

"operator of a pharmacy" means,

(a) the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*, or

(b) the operator of a pharmacy operated in or by a hospital that is a public hospital under the *Public Hospitals Act*;

R.S.O. 1980,
c. 410.

"physician" means a person licensed to engage in the practice of medicine under Part III of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“regulations” means the regulations made under this Act.

Eligible persons

2.—(1) A person who is a member of a designated class of persons is an eligible person.

Persons deemed eligible persons

(2) This Act applies to persons entitled to receive drug benefits under the *Family Benefits Act* and the regulations under it as if those persons were eligible persons.

R.S.O. 1980, c. 151

Application of this Act

3. This Act applies in respect of the supplying of listed drug products for eligible persons unless that supplying is an insured service as defined in the *Health Insurance Act*.

R.S.O. 1980, c. 197

Billing prohibited

4.—(1) No operator of a pharmacy shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person pursuant to a prescription, unless the charge or payment is authorized by the regulations.

Idem

(2) No physician shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person, unless the charge or payment is authorized by the regulations.

Exception

(3) Subsections (1) and (2) do not apply to an operator of a pharmacy or a physician who supplies a listed drug product for an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person.

Payment of claim of operator

5.—(1) An operator of a pharmacy who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person pursuant to a prescription is entitled to be paid by the Minister the amount provided for under section 6.

Agreement re price

(2) The Minister may pay an operator of a pharmacy an amount different from the amount provided for under section 6 in respect of a claim under subsection (1) if the Minister has a written agreement to that effect with the operator.

Payment of claim of physician

(3) A physician who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person is entitled to be paid by the Minister the amount provided for by the regulations.

(4) The person submitting a claim under subsection (1) or (3) shall include in it the information prescribed by the regulations.

Information
in claim

(5) Eligible persons shall be deemed to have authorized persons submitting claims under subsection (1) or (3) to include in the claims the information mentioned in subsection (4).

Deemed
authorization

6.—(1) The amount the Minister shall pay under subsection 5 (1) in respect of a listed drug product is the sum of the dispensing fee referred to in subsection (2) and the amount provided for by the regulations.

Amount
Minister
to pay

(2) The dispensing fee the Minister shall pay to operators of pharmacies under subsection (1) for dispensing listed drug products for eligible persons shall be,

Dispensing
fee

(a) where the pharmacy is operated in a hospital approved as a public hospital under the *Public Hospitals Act*, the amount prescribed by the regulations;

R.S.O. 1980,
c. 410

(b) where the listed drug product does not require a prescription for sale and is designated as one to which this clause applies, no dispensing fee; and

(c) in all other cases, the lesser of,

(i) the amount determined under section 7, or

(ii) the amount the operator charges under subsection 6 (1) of the *Prescription Drug Cost Regulation Act, 1986* (usual and customary dispensing fee).

1986, c. 28

(3) Despite subsection (1), where the Minister is satisfied that an operator of a pharmacy was not reasonably able to purchase any listed drug product of a drug at a price less than or equal to the amount provided for by the regulations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the cost to the operator of purchasing the least expensive listed drug product of the drug that is in the operator's inventory.

Exception

(4) Despite subsection (1), where a prescription includes a direction that there be no substitutions and the Minister is satisfied that the operator of the pharmacy was not reasonably able to purchase the listed drug product prescribed at a price less than or equal to the amount provided for by the regu-

Idem

1986, c. 28	lations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the price designated under subsection 7 (1) of the <i>Prescription Drug Cost Regulation Act, 1986</i> as the best available price for that product.
Idem	(5) For the purpose of subsection (3), the cost to the operator of a pharmacy of purchasing a listed drug product shall be calculated in the manner provided for by the regulations.
Definition	7.—(1) In this section, "Association" means the Ontario Pharmacists Association.
Determination of dispensing fee	(2) The Minister and the Association may by agreement, with or without referring the matter to a fee negotiating committee, determine the dispensing fee the Minister shall pay to operators of pharmacies under subsection 6 (2).
Idem	(3) An agreement made under subsection (2) may establish classes of operators of pharmacies and provide for an amount payable in respect of each class.
Fee negotiating committee	(4) There may be established from time to time as provided under subsection (6) a fee negotiating committee to be composed of, <ul style="list-style-type: none">(a) three voting members appointed by the Minister;(b) three voting members appointed by the Association; and(c) a chairman, who shall not have a vote, to be appointed jointly by the Minister and the Association.
Remuneration of chairman	(5) The remuneration and expenses of the chairman shall be paid for by the Ministry of Health.
Mandatory negotiation	(6) The Minister or the Association may, by notice in writing to the other, require that negotiation of the dispensing fee be conducted by a fee negotiating committee.
Appointment of committee	(7) Not later than seven days after the notice has been received, the Minister and the Association shall each appoint three persons to serve as members of the fee negotiating committee and shall jointly appoint a chairman of the committee.
Negotiation	(8) The committee shall begin its negotiations as soon as reasonably possible on a date to be named by the chairman.

(9) If, after both sides on the committee have negotiated in good faith, the Minister or the Association believes that the committee's negotiations have reached an impasse, that person, by written notice to the chairman and the other person, may request that the chairman recommend a dispensing fee to the committee.

Negotiations
at impasse

(10) The chairman may obtain and use any relevant information that the chairman believes may be useful in formulating the recommendation.

Chairman's
recommendation

(11) The chairman shall recommend a dispensing fee to the committee within thirty days after being requested to do so and shall provide the committee with the information upon which the recommendation was based.

Idem

(12) The committee shall resume its negotiations within seven days after receiving the chairman's recommendation.

Negotiations
resume

(13) At any time after the committee resumes its negotiations under subsection (12), the Minister or the Association may make public the recommendation and the information upon which it was based, after first giving the other person twenty-four hours written notice of the intention to do so.

Recommendations
made public

(14) If, after both sides on the committee have resumed negotiations in good faith, the Minister or the Association believes that the committee's negotiations have again reached an impasse, that person, by written notice to the chairman and the other person, may terminate the negotiations.

Terminate
negotiations

(15) If, at any time in the negotiating process, a majority of the committee, including at least two persons appointed by the Minister and at least two persons appointed by the Association, agree on the appropriate dispensing fee, the chairman on behalf of the committee shall submit that dispensing fee to the Minister and to the Association as the committee's proposed dispensing fee.

Committee
agreement

(16) The Minister and the Association shall in writing notify each other of their acceptance or rejection of the committee's proposed dispensing fee within fourteen days after receiving it.

Notice of
acceptance

(17) If the Minister or the Association rejects the committee's proposed dispensing fee, the committee shall resume its negotiations within seven days thereafter and this section applies as if the committee had not proposed a dispensing fee.

Rejection of
proposed
dispensing
fee

**Dispensing
fee**

(18) The dispensing fee for the purpose of subsection 6 (2) shall be,

- (a) if the Minister and the Association both accept the committee's proposed dispensing fee, the dispensing fee proposed;
- (b) if the Minister and the Association otherwise agree to a dispensing fee, the dispensing fee agreed upon; or
- (c) in all other cases, the dispensing fee provided for by the regulations.

Agreement

(19) The Minister and the Association may enter into a written agreement respecting any aspect of the negotiation of the dispensing fee, and in the event of a conflict between a provision of the agreement and a provision of this section, the agreement prevails.

**Unlisted
drugs,
special case**

8.—(1) If a physician informs the Minister that the proper treatment of a patient who is an eligible person requires the administration of a drug for which there is not a listed drug product, the Minister may make this Act apply in respect of the supplying of that drug as if it were a listed drug product by so notifying the physician.

**Notice to
operator**

(2) An operator of a pharmacy is not liable for contravening this Act or the regulations in respect of supplying a drug referred to in subsection (1) unless the operator has received notice from the physician or from the Minister that this Act applies to that supplying.

**Agreement
re listed
substance**

9.—(1) The Minister may make an agreement with a supplier of a listed substance, providing for payment of a specified amount for supplying the listed substance to an eligible person under the direction of a physician.

**Supplier
not to
charge**

(2) Except as the agreement authorizes, the supplier shall not charge, or accept payment from, any person other than the Minister for supplying the listed substance to an eligible person under the direction of a physician.

Exception

(3) Subsection (2) does not apply to a supplier of a listed substance who supplies the listed substance to an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person.

**Refusal to
dispense
prohibited**

10. No operator of a pharmacy shall refuse to supply a listed drug product for an eligible person in order to avoid the

operation of a provision of this Act but an operator may refuse to supply a listed drug product for an eligible person if the proper exercise of professional judgment so requires.

11.—(1) An operator of a pharmacy may notify the Minister that the operator elects not to accept payment from the Minister under section 5. Opting out

(2) Beginning ninety days after the day the Minister receives the notice under subsection (1), the operator is not entitled to payment from the Minister under section 5 and is not required to supply listed drug products for eligible persons under section 10. Idem

12. The Minister may consult with persons or organizations representing eligible persons, manufacturers of listed drug products, operators of pharmacies, physicians and suppliers of listed substances with respect to the amounts payable by the Minister and other matters of mutual concern arising out of this Act and the regulations. Minister to consult

13.—(1) No person who administers this Act or the regulations shall disclose any information about an eligible person or about the supplying of listed drug products to an eligible person. Confidentiality

(2) Subsection (1) does not apply to the disclosure of information. Exception

(a) to the person's counsel;

(b) with the consent of the eligible person;

(c) in connection with the administration of this Act, the *Prescription Drug Cost Regulation Act, 1986*, the *Health Disciplines Act*, the *Health Insurance Act*, the *Ministry of Health Act*, any other Act administered by the Minister of Health, the *Coroners Act*, the *Provincial Offences Act* or the *Criminal Code* (Canada), or any regulations made thereunder; or 1986, c. 28
R.S.O. 1980,
cc. 196, 197,
280, 93, 400

R.S.C. 1970,
c. C-34

(d) if the communication does not disclose the identity of a drug that was prescribed or supplied for an identified eligible person.

14.—(1) The Minister may appoint inspectors for the purposes of this section. Inspectors

**Examine
books**

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy or a physician, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of the operator or physician or of information they are required to submit under this Act or the regulations, or in determining whether they have complied with this Act and the regulations.

Idem

(3) An inspector may examine records, in whatever form, in the possession or under the control of a wholesaler or manufacturer, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of an operator of a pharmacy or physician or in determining whether the wholesaler or manufacturer have complied with this Act and the regulations.

Copies

(4) In carrying out an inspection under subsection (2), the inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible.

Idem

(5) In carrying out an inspection under subsection (3), the inspector may, upon giving a receipt therefor, take away a sales record or a marketing record or both for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible.

Entry

(6) An inspector may at any reasonable time, on producing proper identification, enter business premises where the inspector believes a record referred to in subsection (2) or (3) may be located for the purpose of an inspection.

Offence

15.—(1) A person who,

- (a) contravenes section 4 (charges a person other than the Minister);
- (b) contravenes subsection 9 (2) (supplier charges contrary to agreement);
- (c) contravenes section 10 (refuses to dispense);
- (d) refuses to submit information or knowingly furnishes false or incomplete information required to be submitted under this Act or the regulations; or

- (e) obstructs a person carrying out an inspection under section 14,

and any director or officer of a corporation who authorizes or permits such a contravention by the corporation, is guilty of an offence and on conviction is liable to a penalty of not more than \$5,000 for a first offence and \$10,000 for a second and subsequent offence.

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1). Idem

16.—(1) A manufacturer of a drug product that is designated or being considered for designation as a listed drug product shall, Conditions for listing

- (a) supply that drug product for the same price to all purchasers in Ontario, other than public hospitals purchasing solely for use in the treatment of patients and out-patients in the hospital, where the purchasers purchase the same quantity of individual units of the drug product in the same dosage form and strength; and
- (b) give to the Minister, on request, the information prescribed by the regulations concerning the production and sale of the drug product.

(2) Where a manufacturer of a drug product contravenes this section or obstructs a person carrying out an inspection under section 14, the Lieutenant Governor in Council may refuse to designate the drug product as a listed drug product, or, where it is already so designated, may remove that designation. Idem

17.—(1) This Act applies with necessary modifications in respect of designated pharmaceutical products and, for the purpose, a designated pharmaceutical product shall be deemed to be a listed drug product. Pharmaceutical products

(2) Section 16 and subsections 18 (2) to (5) do not apply for the purpose of subsection (1). Application of s. 16 and subss. 18 (2-5)

18.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating eligible classes of persons for the purposes of section 2;

- (b) prescribing conditions to be met by products or by manufacturers of products in order for the products to be eligible for designation as listed drug products;
- (c) designating a product as a listed drug product where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be so designated if it or its manufacturer has not met the conditions described in clause (b);
- (d) designating substances other than drugs that are listed substances;
- (e) authorizing the charges that are permitted under section 4;
- (f) prescribing the information to be included in a claim under subsection 5 (4);
- (g) respecting the amounts payable by the Minister under section 5;
- (h) requiring operators of pharmacies and manufacturers and wholesalers of listed drug products to file reports to the Minister concerning the cost to operators of pharmacies and wholesalers of purchasing any drugs and prescribing the information to be included in such reports and the frequency with which such reports are to be made;
- (i) requiring operators of pharmacies and physicians to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained;
- (j) prescribing the manner of calculating the cost to an operator of a pharmacy of purchasing a listed drug product for the purpose of subsection 6 (3);
- (k) designating listed drug products that do not require a prescription for sale for the purpose of clause 6 (2) (b);
- (l) designating pharmaceutical products for the purpose of section 17;

- (m) respecting any matter considered necessary or advisable to carry out the intent and purposes of this Act.

➡ (2) In determining the amounts payable by the Minister under subsections 5 (1) and (2), the Lieutenant Governor in Council shall prescribe from time to time the best available price of the drug, Idem

- (a) as determined by the Minister from such sampling as the Minister considers appropriate; or
- (b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

and prescribe a percentage of the best available price, not less than 10 per cent nor greater than 20 per cent, to be added to it.

➡
⬇ (3) In determining the best available price for a drug, no account shall be taken of a purchase of the drug for use solely in the treatment of hospital patients and out-patients. Idem

(4) In this section, "best available price" for a drug in a particular dosage form and strength, means the lowest amount, calculated per gram, milliliter, tablet, capsule or other appropriate unit, for which a listed drug product of that drug in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario and in calculating that amount, the Lieutenant Governor in Council shall deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. Best available price

(5) Subsection (2) does not apply in respect of listed drug products designated by the regulations for the purpose of clause 6 (2) (b). Exception

(6) A regulation made under this section may be general or particular in its application. Regulations

(7) A regulation is, if it so provides, effective with reference to a period before it is filed. Retroactive

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Ontario Drug Benefit Act, 1986*.

Bill 54

*(Chapter 27
Statutes of Ontario, 1986)*

**An Act to Authorize and Regulate the
Payment by the Minister to Specified Persons
on Behalf of Specified Classes of Persons for the
Dispensing of Specified Drugs**

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

Bill 54

1986

**An Act to Authorize and Regulate the
Payment by the Minister to Specified Persons
on Behalf of Specified Classes of Persons for the
Dispensing of Specified Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"designated" means designated by the regulations;

"drug" means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

"inspector" means a person appointed under section 14;

"listed drug product" means a drug or combination of drugs identified by a specific product name or manufacturer and designated as a listed drug product;

"listed substance" means a substance, other than a drug, designated as a listed substance;

"Minister" means the Minister of Health;

"operator of a pharmacy" means,

(a) the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*, or

(b) the operator of a pharmacy operated in or by a hospital that is a public hospital under the *Public Hospitals Act*;

R.S.O. 1980,
c. 410

"physician" means a person licensed to engage in the practice of medicine under Part III of the *Health Disciplines Act*;

"prescription" means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

"regulations" means the regulations made under this Act.

Eligible persons

2.—(1) A person who is a member of a designated class of persons is an eligible person.

Persons deemed eligible persons
R.S.O. 1980, c. 151

(2) This Act applies to persons entitled to receive drug benefits under the *Family Benefits Act* and the regulations under it as if those persons were eligible persons.

Application of this Act

R.S.O. 1980, c. 197

3. This Act applies in respect of the supplying of listed drug products for eligible persons unless that supplying is an insured service as defined in the *Health Insurance Act*.

Billing prohibited

4.—(1) No operator of a pharmacy shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person pursuant to a prescription, unless the charge or payment is authorized by the regulations.

Idem

(2) No physician shall charge, or accept payment from, a person other than the Minister in respect of supplying a listed drug product for an eligible person, unless the charge or payment is authorized by the regulations.

Exception

(3) Subsections (1) and (2) do not apply to an operator of a pharmacy or a physician who supplies a listed drug product for an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person.

Payment of claim of operator

5.—(1) An operator of a pharmacy who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person pursuant to a prescription is entitled to be paid by the Minister the amount provided for under section 6.

Agreement re price

(2) The Minister may pay an operator of a pharmacy an amount different from the amount provided for under section 6 in respect of a claim under subsection (1) if the Minister has a written agreement to that effect with the operator.

Payment of claim of physician

(3) A physician who submits to the Minister a claim for payment in respect of supplying a listed drug product for an eligible person is entitled to be paid by the Minister the amount provided for by the regulations.

(4) The person submitting a claim under subsection (1) or (3) shall include in it the information prescribed by the regulations. Information in claim

(5) Eligible persons shall be deemed to have authorized persons submitting claims under subsection (1) or (3) to include in the claims the information mentioned in subsection (4). Deemed authorization

6.—(1) The amount the Minister shall pay under subsection 5 (1) in respect of a listed drug product is the sum of the dispensing fee referred to in subsection (2) and the amount provided for by the regulations. Amount Minister to pay

(2) The dispensing fee the Minister shall pay to operators of pharmacies under subsection (1) for dispensing listed drug products for eligible persons shall be, Dispensing fee

(a) where the pharmacy is operated in a hospital approved as a public hospital under the *Public Hospitals Act*, the amount prescribed by the regulations; R.S.O. 1980, c. 410

(b) where the listed drug product does not require a prescription for sale and is designated as one to which this clause applies, no dispensing fee; and

(c) in all other cases, the lesser of,

(i) the amount determined under section 7, or

(ii) the amount the operator charges under subsection 6 (1) of the *Prescription Drug Cost Regulation Act, 1986* (usual and customary dispensing fee). 1986, c. 28

(3) Despite subsection (1), where the Minister is satisfied that an operator of a pharmacy was not reasonably able to purchase any listed drug product of a drug at a price less than or equal to the amount provided for by the regulations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the cost to the operator of purchasing the least expensive listed drug product of the drug that is in the operator's inventory. Exception

(4) Despite subsection (1), where a prescription includes a direction that there be no substitutions and the Minister is satisfied that the operator of the pharmacy was not reasonably able to purchase the listed drug product prescribed at a price less than or equal to the amount provided for by the regu- Idem

- lations for the purpose of subsection (1), the amount that the Minister shall pay under subsection 5 (1) is the sum of the dispensing fee referred to in subsection (2) and the price designated under subsection 7 (1) of the *Prescription Drug Cost Regulation Act, 1986* as the best available price for that product.
- 1986, c. 28
- Idem** (5) For the purpose of subsection (3), the cost to the operator of a pharmacy of purchasing a listed drug product shall be calculated in the manner provided for by the regulations.
- Definition** 7.—(1) In this section, “Association” means the Ontario Pharmacists Association.
- Determination of dispensing fee** (2) The Minister and the Association may by agreement, with or without referring the matter to a fee negotiating committee, determine the dispensing fee the Minister shall pay to operators of pharmacies under subsection 6 (2).
- Idem** (3) An agreement made under subsection (2) may establish classes of operators of pharmacies and provide for an amount payable in respect of each class.
- Fee negotiating committee** (4) There may be established from time to time as provided under subsection (6) a fee negotiating committee to be composed of,
- (a) three voting members appointed by the Minister;
 - (b) three voting members appointed by the Association; and
 - (c) a chairman, who shall not have a vote, to be appointed jointly by the Minister and the Association.
- Remuneration of chairman** (5) The remuneration and expenses of the chairman shall be paid for by the Ministry of Health.
- Mandatory negotiation** (6) The Minister or the Association may, by notice in writing to the other, require that negotiation of the dispensing fee be conducted by a fee negotiating committee.
- Appointment of committee** (7) Not later than seven days after the notice has been received, the Minister and the Association shall each appoint three persons to serve as members of the fee negotiating committee and shall jointly appoint a chairman of the committee.
- Negotiation** (8) The committee shall begin its negotiations as soon as reasonably possible on a date to be named by the chairman.

(9) If, after both sides on the committee have negotiated in good faith, the Minister or the Association believes that the committee's negotiations have reached an impasse, that person, by written notice to the chairman and the other person, may request that the chairman recommend a dispensing fee to the committee.

Negotiations
at impasse

(10) The chairman may obtain and use any relevant information that the chairman believes may be useful in formulating the recommendation.

Chairman's
recommendation

(11) The chairman shall recommend a dispensing fee to the committee within thirty days after being requested to do so and shall provide the committee with the information upon which the recommendation was based.

Idem

(12) The committee shall resume its negotiations within seven days after receiving the chairman's recommendation.

Negotiations
resume

(13) At any time after the committee resumes its negotiations under subsection (12), the Minister or the Association may make public the recommendation and the information upon which it was based, after first giving the other person twenty-four hours written notice of the intention to do so.

Recommendations made
public

(14) If, after both sides on the committee have resumed negotiations in good faith, the Minister or the Association believes that the committee's negotiations have again reached an impasse, that person, by written notice to the chairman and the other person, may terminate the negotiations.

Terminate
negotiations

(15) If, at any time in the negotiating process, a majority of the committee, including at least two persons appointed by the Minister and at least two persons appointed by the Association, agree on the appropriate dispensing fee, the chairman on behalf of the committee shall submit that dispensing fee to the Minister and to the Association as the committee's proposed dispensing fee.

Committee
agreement

(16) The Minister and the Association shall in writing notify each other of their acceptance or rejection of the committee's proposed dispensing fee within fourteen days after receiving it.

Notice of
acceptance

(17) If the Minister or the Association rejects the committee's proposed dispensing fee, the committee shall resume its negotiations within seven days thereafter and this section applies as if the committee had not proposed a dispensing fee.

Rejection of
proposed
dispensing
fee

Dispensing
fee

(18) The dispensing fee for the purpose of subsection 6 (2) shall be,

- (a) if the Minister and the Association both accept the committee's proposed dispensing fee, the dispensing fee proposed;
- (b) if the Minister and the Association otherwise agree to a dispensing fee, the dispensing fee agreed upon; or
- (c) in all other cases, the dispensing fee provided for by the regulations.

Agreement

(19) The Minister and the Association may enter into a written agreement respecting any aspect of the negotiation of the dispensing fee, and in the event of a conflict between a provision of the agreement and a provision of this section, the agreement prevails.

Unlisted
drugs,
special case

8.—(1) If a physician informs the Minister that the proper treatment of a patient who is an eligible person requires the administration of a drug for which there is not a listed drug product, the Minister may make this Act apply in respect of the supplying of that drug as if it were a listed drug product by so notifying the physician.

Notice to
operator

(2) An operator of a pharmacy is not liable for contravening this Act or the regulations in respect of supplying a drug referred to in subsection (1) unless the operator has received notice from the physician or from the Minister that this Act applies to that supplying.

Agreement
re listed
substance

9.—(1) The Minister may make an agreement with a supplier of a listed substance, providing for payment of a specified amount for supplying the listed substance to an eligible person under the direction of a physician.

Supplier
not to
charge

(2) Except as the agreement authorizes, the supplier shall not charge, or accept payment from, any person other than the Minister for supplying the listed substance to an eligible person under the direction of a physician.

Exception

(3) Subsection (2) does not apply to a supplier of a listed substance who supplies the listed substance to an eligible person without knowing or having reasonable grounds to believe that the person is an eligible person.

Refusal to
dispense
prohibited

10. No operator of a pharmacy shall refuse to supply a listed drug product for an eligible person in order to avoid the

operation of a provision of this Act but an operator may refuse to supply a listed drug product for an eligible person if the proper exercise of professional judgment so requires.

11.—(1) An operator of a pharmacy may notify the Minister that the operator elects not to accept payment from the Minister under section 5. Opting out

(2) Beginning ninety days after the day the Minister receives the notice under subsection (1), the operator is not entitled to payment from the Minister under section 5 and is not required to supply listed drug products for eligible persons under section 10. Idem

12. The Minister may consult with persons or organizations representing eligible persons, manufacturers of listed drug products, operators of pharmacies, physicians and suppliers of listed substances with respect to the amounts payable by the Minister and other matters of mutual concern arising out of this Act and the regulations. Minister to consult

13.—(1) No person who administers this Act or the regulations shall disclose any information about an eligible person or about the supplying of listed drug products to an eligible person. Confidentiality

(2) Subsection (1) does not apply to the disclosure of information, Exception

(a) to the person's counsel;

(b) with the consent of the eligible person;

(c) in connection with the administration of this Act, the *Prescription Drug Cost Regulation Act, 1986*, the *Health Disciplines Act*, the *Health Insurance Act*, the *Ministry of Health Act*, any other Act administered by the Minister of Health, the *Coroners Act*, the *Provincial Offences Act* or the *Criminal Code* (Canada), or any regulations made thereunder; or 1986, c. 28
R.S.O. 1980,
cc 196, 197,
280, 93, 400

R.S.C. 1970,
c. C-34

(d) if the communication does not disclose the identity of a drug that was prescribed or supplied for an identified eligible person.

14.—(1) The Minister may appoint inspectors for the purposes of this section. Inspectors

Examine
books

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy or a physician, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of the operator or physician or of information they are required to submit under this Act or the regulations, or in determining whether they have complied with this Act and the regulations.

Idem

(3) An inspector may examine records, in whatever form, in the possession or under the control of a wholesaler or manufacturer, if the inspector believes on reasonable grounds that the records will assist the inspector in determining the accuracy and completeness of a claim for payment of an operator of a pharmacy or physician or in determining whether the wholesaler or manufacturer have complied with this Act and the regulations.

Copies

(4) In carrying out an inspection under subsection (2), the inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible.

Idem

(5) In carrying out an inspection under subsection (3), the inspector may, upon giving a receipt therefor, take away a sales record or a marketing record or both for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible.

Entry

(6) An inspector may at any reasonable time, on producing proper identification, enter business premises where the inspector believes a record referred to in subsection (2) or (3) may be located for the purpose of an inspection.

Offence

15.—(1) A person who,

- (a) contravenes section 4 (charges a person other than the Minister);
- (b) contravenes subsection 9 (2) (supplier charges contrary to agreement);
- (c) contravenes section 10 (refuses to dispense);
- (d) refuses to submit information or knowingly furnishes false or incomplete information required to be submitted under this Act or the regulations; or

- (e) obstructs a person carrying out an inspection under section 14,

and any director or officer of a corporation who authorizes or permits such a contravention by the corporation, is guilty of an offence and on conviction is liable to a penalty of not more than \$5,000 for a first offence and \$10,000 for a second and subsequent offence.

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1). Idem

16.—(1) A manufacturer of a drug product that is designated or being considered for designation as a listed drug product shall, Conditions for listing

- (a) supply that drug product for the same price to all purchasers in Ontario, other than public hospitals purchasing solely for use in the treatment of patients and out-patients in the hospital, where the purchasers purchase the same quantity of individual units of the drug product in the same dosage form and strength; and
- (b) give to the Minister, on request, the information prescribed by the regulations concerning the production and sale of the drug product.

(2) Where a manufacturer of a drug product contravenes this section or obstructs a person carrying out an inspection under section 14, the Lieutenant Governor in Council may refuse to designate the drug product as a listed drug product, or, where it is already so designated, may remove that designation. Idem

17.—(1) This Act applies with necessary modifications in respect of designated pharmaceutical products and, for the purpose, a designated pharmaceutical product shall be deemed to be a listed drug product. Pharmaceutical products

(2) Section 16 and subsections 18 (2) to (5) do not apply for the purpose of subsection (1). Application of s. 16 and subss. 18 (2-5)

18.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating eligible classes of persons for the purposes of section 2;

- (b) prescribing conditions to be met by products or by manufacturers of products in order for the products to be eligible for designation as listed drug products;
- (c) designating a product as a listed drug product where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be so designated if it or its manufacturer has not met the conditions described in clause (b);
- (d) designating substances other than drugs that are listed substances;
- (e) authorizing the charges that are permitted under section 4;
- (f) prescribing the information to be included in a claim under subsection 5 (4);
- (g) respecting the amounts payable by the Minister under section 5;
- (h) requiring operators of pharmacies and manufacturers and wholesalers of listed drug products to file reports to the Minister concerning the cost to operators of pharmacies and wholesalers of purchasing any drugs and prescribing the information to be included in such reports and the frequency with which such reports are to be made;
- (i) requiring operators of pharmacies and physicians to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained;
- (j) prescribing the manner of calculating the cost to an operator of a pharmacy of purchasing a listed drug product for the purpose of subsection 6 (3);
- (k) designating listed drug products that do not require a prescription for sale for the purpose of clause 6 (2) (b);
- (l) designating pharmaceutical products for the purpose of section 17;

- (m) respecting any matter considered necessary or advisable to carry out the intent and purposes of this Act.

(2) In determining the amounts payable by the Minister under subsections 5 (1) and (2), the Lieutenant Governor in Council shall prescribe from time to time the best available price of the drug, Idem

- (a) as determined by the Minister from such sampling as the Minister considers appropriate; or
- (b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

and prescribe a percentage of the best available price, not less than 10 per cent nor greater than 20 per cent, to be added to it.

(3) In determining the best available price for a drug, no account shall be taken of a purchase of the drug for use solely in the treatment of hospital patients and out-patients. Idem

(4) In this section, "best available price" for a drug in a particular dosage form and strength, means the lowest amount, calculated per gram, milliliter, tablet, capsule or other appropriate unit, for which a listed drug product of that drug in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario and in calculating that amount, the Lieutenant Governor in Council shall deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. Best available price

(5) Subsection (2) does not apply in respect of listed drug products designated by the regulations for the purpose of clause 6 (2) (b). Exception

(6) A regulation made under this section may be general or particular in its application. Regulations

(7) A regulation is, if it so provides, effective with reference to a period before it is filed. Retroactive

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Ontario Drug Benefit Act, 1986*.

Bill 55

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

This Act is based on an amended version of section 155 of the *Health Disciplines Act*.

The Lieutenant Governor in Council is authorized to designate prescription drug products as interchangeable with one another for the purposes of this Act. If a particular interchangeable product is named in a prescription and the prescription does not say "no substitutions", the pharmacist is allowed, and on the customer's request required, to dispense an interchangeable product. The pharmacist cannot dispense the named drug without informing the customer of the right to request an interchangeable product. If a prescription names a generic drug for which there are interchangeable products, the pharmacist is required to dispense an interchangeable product. Pharmacists are required to set, post and inform customers of their maximum dispensing fee for interchangeable products. The Executive Council is authorized to make regulations concerning the amounts to be charged for selling interchangeable products. Pharmacists and physicians are protected from liability for dispensing interchangeable products under this Act.

For all prescription drugs, pharmacists are required to dispense the entire quantity prescribed unless the customer consents to or the regulations authorize a lesser quantity.

The Lieutenant Governor in Council can assign enforcement of this Act to one of its members or to the Ontario College of Pharmacists. The person assigned to enforce the Act is authorized to inspect records of pharmacists to ensure compliance with the Act.

Offences are created for contravening a provision of the Act or regulations and maximum penalties of \$10,000 for an individual and \$50,000 for a corporation are imposed.

Bill 55

1986

**An Act to provide for the
Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 10 of this Act;

“interchangeable product” means a drug or combination of drugs identified by a specific product name or manufacturer and designated as interchangeable with one or more other such products;

“operator of a pharmacy” means,

(a) the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*, or

(b) the operator of a pharmacy operated in a hospital approved as a public hospital under the *Public Hospitals Act*;

R.S.O. 1980,
c. 410

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“regulations” means the regulations made under this Act.

Substitution
where named
product

2.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

Request for
interchange-
able
product

(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

Inform
customer

(3) If a person presents a prescription that directs the dispensing of a specific interchangeable product, the dispenser shall not dispense that product without informing the person, in the manner prescribed by the regulations, of the right to request an interchangeable product.

Exception

(4) Subsections (1), (2) and (3) do not apply if the person issuing the prescription directs in the prescription that there shall be no substitutions.

Dispensing
generic
drug

3. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug.

Maximum
dispensing
fee

4.—(1) Every operator of a pharmacy shall set a single maximum dispensing fee to be charged in respect of dispensing interchangeable products and shall file a statement with the Registrar of the Ontario College of Pharmacists setting out that fee.

Notify
customers

(2) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the fee set under subsection (1) and any other information prescribed by the regulations respecting the charge for interchangeable products.

Maximum
charge for
supplying
interchange-
able
products

5. No person shall charge more than the maximum amount provided for by the regulations for supplying an interchangeable product pursuant to a prescription.

No
liability
for
dispensing
interchange-
able
products

6. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription or the dispenser on the grounds that an interchangeable product other than the one prescribed was dispensed.

Dispense
entire
quantity

7.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug pre-

scribed at one time unless before the drug is dispensed the person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions. Exception

8. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged. Inform customer of cost of drugs

9. The Lieutenant Governor in Council may by regulation assign to a member of the Executive Council or to the Ontario College of Pharmacists the authority for enforcing this Act. Enforcement of Act

10.—(1) The person assigned the responsibility for enforcing this Act may appoint inspectors for the purposes of this Act. Inspectors

(2) An inspector or any person acting under the inspector's instructions may inspect any pharmacy and examine any records in whatever form in the possession or under the control of the operator of the pharmacy if those records are relevant to determine whether this Act is being complied with. Examine books

(3) A person carrying out an inspection may, upon giving a receipt therefor, take away a record for the purpose of making a copy, but the copy shall be made with reasonable dispatch and the record shall be promptly thereafter returned. Copies

(4) An inspector or a person acting under the inspector's instructions may at any reasonable time on producing proper identification enter any business premises where the inspector or person believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

11.—(1) Any person who, Offence

- (a) contravenes subsection 2 (2) (dispense product requested);
- (b) contravenes subsection 2 (3) (inform customer of interchangeable product);
- (c) contravenes section 3 (dispense interchangeable when generic prescribed);
- (d) contravenes section 4 (maximum dispensing fee set and posted);

- (e) contravenes section 5 (maximum allowable charge);
- (f) contravenes section 7 (dispense entire quantity);
- (g) contravenes section 8 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 10,

and any director, officer, employee or agent of a corporation who authorizes, permits or concurs in such a contravention by a corporation is guilty of an offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

12.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating products as interchangeable with other products for the purposes of this Act;
- (b) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 2 (3));
- (c) prescribing the information to be included in a notice (subsection 4 (2)) and the manner of posting a notice;
- (d) providing for the maximum amounts chargeable for interchangeable drugs (section 5);
- (e) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 7 (2));
- (f) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 8);
- (g) assigning the responsibility for enforcing this Act;
- (h) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained;

- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation made under clause (1) (d) may,

Idem

- (a) prescribe a specified amount or one or more methods for determining the maximum amount payable for each interchangeable product;
- (b) prescribe a specified amount or method for determining a fee or allowance to be charged in respect of each interchangeable product sold; and
- (c) limit the frequency with which a fee or allowance may be charged.

(3) A regulation made under clause (1) (d) may establish different classes of operators of pharmacies and provide for a different amount payable under subsection (1) in respect of each class.

Idem

(4) A regulation made under this section may be general or particular in its application.

Idem

13.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

15. The short title of this Act is the *Prescription Drug Cost Regulation Act, 1986*.

Short title

Bill 55

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

This Act is based on an amended version of section 155 of the *Health Disciplines Act*.

The Lieutenant Governor in Council is authorized to designate prescription drug products as interchangeable with one another for the purposes of this Act. The Lieutenant Governor in Council may prescribe conditions to be met by products of their manufacturers to be designated as interchangeable and is not to designate a product as interchangeable if those conditions are not met or if it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the products to be interchangeable with it.

If a particular interchangeable product is named in a prescription and the prescription does not say "no substitutions", the pharmacist is allowed, and on the customer's request required, to dispense an interchangeable product. The pharmacist cannot dispense the named drug without informing the customer of the right to request an interchangeable product. If a prescription names a generic drug for which there are interchangeable products, the pharmacist is required to dispense an interchangeable product. Pharmacists are required to set, post and inform customers of their usual and customary dispensing fee for interchangeable products. Pharmacists and physicians are protected from liability for dispensing interchangeable products under this Act.

The Bill provides a maximum charge for supplying any drug product pursuant to a prescription equal to the sum of a base price described below, a prescribed percentage of that price and the person's usual and customary dispensing fee. The base price is provided to be the best available price of the product dispensed where the product is not interchangeable, where there are to be no substitutions or where the customer has requested a particular product. In all other cases the base price is the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

For all prescription drugs, other than those excepted by the regulations, pharmacists are required to dispense the entire quantity prescribed unless the customer consents to or the regulations authorize a lesser quantity.

The Ontario College of Pharmacists is assigned responsibility for enforcing the Act in respect of operators of pharmacies and dispensers in pharmacies. The College is authorized to inspect records of pharmacists to ensure compliance with the Act.

Offences are created for contravening a provision of the Act or regulations and maximum penalties of \$10,000 for an individual and \$50,000 for a corporation are imposed.

Bill 55

1986

**An Act to provide for the
Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“dispenser” means a person who dispenses a drug pursuant to a prescription;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 12 of this Act;

“interchangeable product” means a drug or combination of drugs identified by a specific product name or manufacturer and designated as interchangeable with one or more other such products;

“operator of a pharmacy” means the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“Registrar” means the Registrar of the Ontario College of Pharmacists;

“regulations” means the regulations made under this Act.

Application
of this Act

R.S.O. 1980,
c. 410

2. This Act does not apply to the dispensing of a drug in or by a hospital approved as a public hospital under the *Public Hospitals Act* if the drug is dispensed for a patient or an out-patient of the hospital.

Over the
counter
drugs
excepted

3. Subsections 4 (2) and (3) and sections 5, 6, 7, 9 and 10 do not apply in respect of an interchangeable product that does not require a prescription for sale.

Substitution
where named
product

4.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

Request for
interchange-
able
product

(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person for whom the product was prescribed or the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

Inform
customer

(3) If a prescription directs the dispensing of a specific interchangeable product, the dispenser shall not supply that product without informing the person for whom the product was prescribed or the person presenting the prescription, in the manner prescribed by the regulations, of the right to request an interchangeable product.

Exceptions

(4) Subsection (3) does not apply if,


1986, c. ...

- (a) the amount to be charged for supplying the product specified in the prescription is not more than the least amount that would have been charged for supplying a product that is interchangeable with it and available in the dispenser's inventory;
- (b) a claim for payment will be submitted to the Minister of Health under section 5 of the *Ontario Drug Benefit Act, 1986* in respect of the supplying of the product; or
- (c) the product is being supplied pursuant to a repeat of the prescription.

Selection
of inter-
changeable
product


(5) If a prescription directs the dispensing of a product that is not designated as an interchangeable product and there is an interchangeable product that contains a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the product prescribed, the dispenser may dispense the interchangeable product.

(6) Subsections (1), (2), (3) and (5) do not apply to a prescription that includes, Exception


- (a) in the case of a written prescription, the handwritten words "no sub" or "no substitution"; or
- (b) in any other case, a direction recorded by the dispenser that there be no substitution. 


5. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug. Dispensing generic drug

6.—(1) Every operator of a pharmacy shall set a single specific amount as a usual and customary dispensing fee in respect of dispensing interchangeable products and shall file a statement with the Registrar setting out that fee. Maximum dispensing fee

 (2) An operator of a pharmacy may change the usual and customary dispensing fee by filing a statement with the Registrar setting out the new fee. Change of fee

(3) The usual and customary dispensing fee becomes effective on the day the statement is received by the Registrar. Effective date of fee

 (4) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the usual and customary dispensing fee filed with the Registrar and any other information prescribed by the regulations respecting the charge for interchangeable products. Notify customers

 **7.**—(1) In this section, "best available price", in respect of a particular manufacturer's drug product in a particular dosage form and strength for which a prescription is dispensed, means the lowest price, calculated per gram, milliliter, capsule or other appropriate unit, for which that product in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario, which price shall be prescribed by the regulations, and in calculating that price, the Lieutenant Governor in Council shall deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. Best available price


(2) The base price for supplying a drug product pursuant to a prescription shall be, Determining base price

- (a) where the drug product is not an interchangeable product, the best available price of that product;

- (b) where the person issuing the prescription has specified that there shall be no substitutions, the best available price of the product prescribed;
- (c) where the person presenting the prescription has requested the dispensing of a particular interchangeable product, the best available price of that product; and
- (d) in all other cases, the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

Maximum
charge for
supplying
drug
products

(3) No person shall charge more for supplying a drug product pursuant to a prescription than the sum of,

- (a) the base price determined under subsection (2);
- (b) the percentage of that price, not less than 10 per cent and not greater than 20 per cent, that is prescribed by the regulations; and
- (c) that person's usual and customary dispensing fee. 

No
liability
for
dispensing
interchange-
able
products

8. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription, the dispenser or any person who is responsible in law for the acts of either of them on the grounds that an interchangeable product other than the one prescribed was dispensed.


Dispense
entire
quantity

9.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug prescribed at one time unless before the drug is dispensed the person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

Exception

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions.

Idem

(3) The regulations may designate specific drugs that are to be exempt from the application of subsection (1). 

Inform
customer of
cost of drugs

10. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged.

11. The Ontario College of Pharmacists is responsible for the enforcement of this Act in respect of operators of pharmacies and dispensers in pharmacies. Enforcement

12.—(1) The Ontario College of Pharmacists may appoint inspectors for the purpose of enforcing this Act. Inspectors

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy if the inspector believes on reasonable grounds that the records will assist the inspector in determining whether this Act and the regulations have been complied with. Examine books

(3) An inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. Copies

(4) An inspector may at any reasonable time on producing proper identification enter any business premises where the inspector believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

13.—(1) Any person who, Offence

- (a) contravenes subsection 4 (2) (dispense product requested);
- (b) contravenes subsection 4 (3) (inform customer of interchangeable product);
- (c) contravenes section 5 (dispense interchangeable when generic prescribed);
- (d) contravenes section 6 (usual and customary dispensing fee set and posted);
- (e) contravenes section 7 (maximum allowable charge);
- (f) contravenes section 9 (dispense entire quantity);
- (g) contravenes section 10 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 12.

and any director or officer of a corporation who authorizes or permits such a contravention by a corporation is guilty of an

offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing conditions to be met by products or by manufacturers of products in order to be designated as interchangeable with other products;
- (b) designating a product as interchangeable with one or more other products where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be designated as interchangeable with another product if,
 - (i) it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the other product, or
 - (ii) the product or its manufacturer has not met the conditions described in clause (a);
- (c) providing for the maximum amounts chargeable for drug products (section 7).

Idem

(2) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of the Ontario College of Pharmacists may make regulations,

- (a) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 4 (3));
- (b) prescribing the information to be included in a notice (subsection 6 (2)) and the manner of posting a notice;
- (c) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 9 (2));
- (d) designating specific drugs that are to be exempt from the application of subsection 9 (1);

- (e) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 10);—
- (f) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained.

(3) Where the Minister requests in writing that the Council of the Ontario College of Pharmacists make, amend or revoke a regulation under subsection (2) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. Idem

(4) A regulation made under subsection (1) or (2) may be general or particular in its application. Idem

15.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

17. The short title of this Act is the *Prescription Drug Cost Regulation Act, 1986*. Short title

Bill 55

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

This Act is based on an amended version of section 155 of the *Health Disciplines Act*.

The Lieutenant Governor in Council is authorized to designate prescription drug products as interchangeable with one another for the purposes of this Act. The Lieutenant Governor in Council may prescribe conditions to be met by products of their manufacturers to be designated as interchangeable and is not to designate a product as interchangeable if those conditions are not met or if it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the products to be interchangeable with it.

If a particular interchangeable product is named in a prescription and the prescription does not say "no substitutions", the pharmacist is allowed, and on the customer's request required, to dispense an interchangeable product. The pharmacist cannot dispense the named drug without informing the customer of the right to request an interchangeable product. If a prescription names a generic drug for which there are interchangeable products, the pharmacist is required to dispense an interchangeable product. Pharmacists are required to set, post and inform customers of their usual and customary dispensing fee for interchangeable products. Pharmacists and physicians are protected from liability for dispensing interchangeable products under this Act.

The Bill provides a maximum charge for supplying any drug product pursuant to a prescription equal to the sum of a base price described below, a prescribed percentage of that price and the person's usual and customary dispensing fee. The base price is provided to be the best available price of the product dispensed where the product is not interchangeable, where there are to be no substitutions or where the customer has requested a particular product. In all other cases the base price is the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

For all prescription drugs, other than those excepted by the regulations, pharmacists are required to dispense the entire quantity prescribed unless the customer consents to or the regulations authorize a lesser quantity.

The Ontario College of Pharmacists is assigned responsibility for enforcing the Act in respect of operators of pharmacies and dispensers in pharmacies. The College is authorized to inspect records of pharmacists to ensure compliance with the Act.

Offences are created for contravening a provision of the Act or regulations and maximum penalties of \$10,000 for an individual and \$50,000 for a corporation are imposed.

Bill 55

1986

**An Act to provide for the
Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“dispenser” means a person who dispenses a drug pursuant to a prescription;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 12 of this Act;

“interchangeable product” means a drug or combination of drugs identified by a specific product name or manufacturer and designated as interchangeable with one or more other such products;

“operator of a pharmacy” means the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“Registrar” means the Registrar of the Ontario College of Pharmacists;

“regulations” means the regulations made under this Act.

Application
of this Act

R.S.O. 1980,
c. 410

2. This Act does not apply to the dispensing of a drug in or by a hospital approved as a public hospital under the *Public Hospitals Act* if the drug is dispensed for a patient or an out-patient of the hospital.

Over the
counter
drugs
excepted

3. Subsections 4 (2) and (3) and sections 5, 6, 7, 9 and 10 do not apply in respect of an interchangeable product that does not require a prescription for sale.

Substitution
where named
product

4.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

Request for
interchange-
able
product

(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person for whom the product was prescribed or the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

Inform
customer

(3) If a prescription directs the dispensing of a specific interchangeable product, the dispenser shall not supply that product without informing the person for whom the product was prescribed or the person presenting the prescription, in the manner prescribed by the regulations, of the right to request an interchangeable product.

Exceptions

(4) Subsection (3) does not apply if,

(a) the amount to be charged for supplying the product specified in the prescription is not more than the least amount that would have been charged for supplying a product that is interchangeable with it and available in the dispenser's inventory;

1986, c. 27

(b) a claim for payment will be submitted to the Minister of Health under section 5 of the *Ontario Drug Benefit Act, 1986* in respect of the supplying of the product; or

(c) the product is being supplied pursuant to a repeat of the prescription.

Selection
of inter-
changeable
product

(5) If a prescription directs the dispensing of a product that is not designated as an interchangeable product and there is an interchangeable product that contains a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the product prescribed, the dispenser may dispense the interchangeable product.

(6) Subsections (1), (2), (3) and (5) do not apply to a prescription that includes, Exception

- (a) in the case of a written prescription, the handwritten words "no sub" or "no substitution"; or
- (b) in any other case, a direction recorded by the dispenser that there be no substitution.

5. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug. Dispensing generic drug

6.—(1) Every operator of a pharmacy shall set a single specific amount as a usual and customary dispensing fee in respect of dispensing interchangeable products and shall file a statement with the Registrar setting out that fee. Maximum dispensing fee

(2) An operator of a pharmacy may change the usual and customary dispensing fee by filing a statement with the Registrar setting out the new fee. Change of fee


(3) The usual and customary dispensing fee becomes effective on the day the statement is received by the Registrar. Effective date of fee

(4) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the usual and customary dispensing fee filed with the Registrar and any other information prescribed by the regulations respecting the charge for interchangeable products. Notify customers

7.—(1) In this section, "best available price", in respect of a particular manufacturer's drug product in a particular dosage form and strength for which a prescription is dispensed, means the lowest price, calculated per gram, milliliter, capsule, tablet or other appropriate unit, for which that product in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario. Best available price

- (a) as determined by the Minister from such sampling as the Minister considers appropriate; or
- (b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

which price shall be prescribed by the regulations, and in calculating that price, the Lieutenant Governor in Council shall

deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. 

Determining
base price

(2) The base price for supplying a drug product pursuant to a prescription shall be,

1986, c. 27

- (a) where the drug product is not an interchangeable product and the product is a listed drug product as defined in the *Ontario Drug Benefit Act, 1986*, the best available price of that product;
- (b) where the person issuing the prescription has specified that there shall be no substitutions, the best available price of the product prescribed;
- (c) where the person presenting the prescription has requested the dispensing of a particular interchangeable product, the best available price of that product unless a greater amount is provided for in the regulations; and
- (d) in all other cases, the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

Maximum
charge for
supplying
drug
products

(3) No person shall charge more for supplying a drug product pursuant to a prescription than the sum of,

- (a) the base price determined under subsection (2);
- (b) the percentage of that price, not less than 10 per cent and not greater than 20 per cent, that is prescribed by the regulations; and
- (c) that person's usual and customary dispensing fee.

No
liability
for
dispensing
interchange-
able
products

8. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription, the dispenser or any person who is responsible in law for the acts of either of them on the grounds that an interchangeable product other than the one prescribed was dispensed.

Dispense
entire
quantity

9.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug prescribed at one time unless before the drug is dispensed the person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions. Exception

(3) The regulations may designate specific drugs that are to be exempt from the application of subsection (1). Idem

10. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged. Inform customer of cost of drugs

11. The Ontario College of Pharmacists is responsible for the enforcement of this Act in respect of operators of pharmacies and dispensers in pharmacies. Enforcement

12.—(1) The Ontario College of Pharmacists may appoint inspectors for the purpose of enforcing this Act. Inspectors

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy if the inspector believes on reasonable grounds that the records will assist the inspector in determining whether this Act and the regulations have been complied with. Examine books

(3) An inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. Copies

(4) An inspector may at any reasonable time on producing proper identification enter any business premises where the inspector believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

13.—(1) Any person who, Offence

(a) contravenes subsection 4 (2) (dispense product requested);

(b) contravenes subsection 4 (3) (inform customer of interchangeable product);

(c) contravenes section 5 (dispense interchangeable when generic prescribed);

(d) contravenes section 6 (usual and customary dispensing fee set and posted);

(e) contravenes section 7 (maximum allowable charge);

- (f) contravenes section 9 (dispense entire quantity);
- (g) contravenes section 10 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 12,

and any director or officer of a corporation who authorizes or permits such a contravention by a corporation is guilty of an offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing conditions to be met by products or by manufacturers of products in order to be designated as interchangeable with other products;
- (b) designating a product as interchangeable with one or more other products where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be designated as interchangeable with another product if,
 - (i) it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the other product, or
 - (ii) the product or its manufacturer has not met the conditions described in clause (a);
- (c) providing for the maximum amounts chargeable for drug products (section 7);
- (d) prescribing circumstances in which persons may charge more than their usual and customary dispensing fees.

Idem

(2) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of the Ontario College of Pharmacists may make regulations,

- (a) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 4 (3));

- (b) prescribing the information to be included in a notice (subsection 6 (2)) and the manner of posting a notice;
- (c) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 9 (2));
- (d) designating specific drugs that are to be exempt from the application of subsection 9 (1);
- (e) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 10);
- (f) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained.

(3) Where the Minister requests in writing that the Council ^{Idem} of the Ontario College of Pharmacists make, amend or revoke a regulation under subsection (2) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

(4) A regulation made under subsection (1) or (2) may be ^{Idem} general or particular in its application.

15.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

16. This Act comes into force on a day to be named by ^{Commence-} proclamation of the Lieutenant Governor. ^{ment}

17. The short title of this Act is the *Prescription Drug Cost* ^{Short title} *Regulation Act, 1986.*

Bill 55

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

1st Reading April 22nd, 1986
2nd Reading April 22nd, 1986
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)
(2nd Reprint—Correction of printing error—s. 7 (2, 3))

EXPLANATORY NOTES

This Act is based on an amended version of section 155 of the *Health Disciplines Act*.

The Lieutenant Governor in Council is authorized to designate prescription drug products as interchangeable with one another for the purposes of this Act. The Lieutenant Governor in Council may prescribe conditions to be met by products of their manufacturers to be designated as interchangeable and is not to designate a product as interchangeable if those conditions are not met or if it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the products to be interchangeable with it.

If a particular interchangeable product is named in a prescription and the prescription does not say "no substitutions", the pharmacist is allowed, and on the customer's request required, to dispense an interchangeable product. The pharmacist cannot dispense the named drug without informing the customer of the right to request an interchangeable product. If a prescription names a generic drug for which there are interchangeable products, the pharmacist is required to dispense an interchangeable product. Pharmacists are required to set, post and inform customers of their usual and customary dispensing fee for interchangeable products. Pharmacists and physicians are protected from liability for dispensing interchangeable products under this Act.

The Bill provides a maximum charge for supplying any drug product pursuant to a prescription equal to the sum of a base price described below, a prescribed percentage of that price and the person's usual and customary dispensing fee. The base price is provided to be the best available price of the product dispensed where the product is not interchangeable, where there are to be no substitutions or where the customer has requested a particular product. In all other cases the base price is the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

For all prescription drugs, other than those excepted by the regulations, pharmacists are required to dispense the entire quantity prescribed unless the customer consents to or the regulations authorize a lesser quantity.

The Ontario College of Pharmacists is assigned responsibility for enforcing the Act in respect of operators of pharmacies and dispensers in pharmacies. The College is authorized to inspect records of pharmacists to ensure compliance with the Act.

Offences are created for contravening a provision of the Act or regulations and maximum penalties of \$10,000 for an individual and \$50,000 for a corporation are imposed.

Bill 55

1986

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Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

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1. In this Act,

Definitions

"designated" means designated by the regulations;

"dispenser" means a person who dispenses a drug pursuant to a prescription;

"drug" means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

"inspector" means a person appointed under section 12 of this Act;

"interchangeable product" means a drug or combination of drugs identified by a specific product name or manufacturer and designated as interchangeable with one or more other such products;

"operator of a pharmacy" means the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*;

"prescription" means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

"Registrar" means the Registrar of the Ontario College of Pharmacists;

"regulations" means the regulations made under this Act.

Application
of this Act

R.S.O. 1980,
c. 410

2. This Act does not apply to the dispensing of a drug in or by a hospital approved as a public hospital under the *Public Hospitals Act* if the drug is dispensed for a patient or an out-patient of the hospital.

Over the
counter
drugs
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3. Subsections 4 (2) and (3) and sections 5, 6, 7, 9 and 10 do not apply in respect of an interchangeable product that does not require a prescription for sale.

Substitution
where named
product

4.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

Request for
interchange-
able
product

(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person for whom the product was prescribed or the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

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(3) If a prescription directs the dispensing of a specific interchangeable product, the dispenser shall not supply that product without informing the person for whom the product was prescribed or the person presenting the prescription, in the manner prescribed by the regulations, of the right to request an interchangeable product.

Exceptions

(4) Subsection (3) does not apply if,

(a) the amount to be charged for supplying the product specified in the prescription is not more than the least amount that would have been charged for supplying a product that is interchangeable with it and available in the dispenser's inventory;

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(b) a claim for payment will be submitted to the Minister of Health under section 5 of the *Ontario Drug Benefit Act, 1986* in respect of the supplying of the product; or

(c) the product is being supplied pursuant to a repeat of the prescription.

Selection
of inter-
changeable
product

(5) If a prescription directs the dispensing of a product that is not designated as an interchangeable product and there is an interchangeable product that contains a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the product prescribed, the dispenser may dispense the interchangeable product.

(6) Subsections (1), (2), (3) and (5) do not apply to a prescription that includes, Exception

- (a) in the case of a written prescription, the handwritten words "no sub" or "no substitution"; or
- (b) in any other case, a direction recorded by the dispenser that there be no substitution.

5. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug. Dispensing generic drug

6.—(1) Every operator of a pharmacy shall set a single specific amount as a usual and customary dispensing fee in respect of dispensing interchangeable products and shall file a statement with the Registrar setting out that fee. Maximum dispensing fee

(2) An operator of a pharmacy may change the usual and customary dispensing fee by filing a statement with the Registrar setting out the new fee. Change of fee


(3) The usual and customary dispensing fee becomes effective on the day the statement is received by the Registrar. Effective date of fee

(4) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the usual and customary dispensing fee filed with the Registrar and any other information prescribed by the regulations respecting the charge for interchangeable products. Notify customers

7.—(1) In this section, "best available price", in respect of a particular manufacturer's drug product in a particular dosage form and strength for which a prescription is dispensed, means the lowest price, calculated per gram, milliliter, capsule, tablet or other appropriate unit, for which that product in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario. Best available price

- (a) as determined by the Minister from such sampling as the Minister considers appropriate; or
- (b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

which price shall be prescribed by the regulations, and in calculating that price, the Lieutenant Governor in Council shall

deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature. 

Determining
base price

(2) The base price for supplying a drug product pursuant to a prescription shall be,

1986, c. 27

- (a) where the drug product is not an interchangeable product and the product is a listed drug product as defined in the *Ontario Drug Benefit Act, 1986*, the best available price of that product;
- (b) where the person issuing the prescription has specified that there shall be no substitutions, the best available price of the product prescribed;
- (c) where the person presenting the prescription has requested the dispensing of a particular interchangeable product, the best available price of that product; and
- (d) in all other cases, the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

Maximum
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products

(3) No person shall charge more for supplying a drug product pursuant to a prescription than the sum of,

- (a) the base price determined under subsection (2);
- (b) the percentage of that price, not less than 10 per cent and not greater than 20 per cent, that is prescribed by the regulations; and
- (c) that person's usual and customary dispensing fee unless a greater amount is provided for in the regulations.

No
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8. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription, the dispenser or any person who is responsible in law for the acts of either of them on the grounds that an interchangeable product other than the one prescribed was dispensed.

Dispense
entire
quantity

9.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug prescribed at one time unless before the drug is dispensed the

person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions. Exception

(3) The regulations may designate specific drugs that are to be exempt from the application of subsection (1). Idem

10. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged. Inform customer of cost of drugs

11. The Ontario College of Pharmacists is responsible for the enforcement of this Act in respect of operators of pharmacies and dispensers in pharmacies. Enforcement

12.—(1) The Ontario College of Pharmacists may appoint inspectors for the purpose of enforcing this Act. Inspectors

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy if the inspector believes on reasonable grounds that the records will assist the inspector in determining whether this Act and the regulations have been complied with. Examine books

(3) An inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. Copies

(4) An inspector may at any reasonable time on producing proper identification enter any business premises where the inspector believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

13.—(1) Any person who, Offence

(a) contravenes subsection 4 (2) (dispense product requested);

(b) contravenes subsection 4 (3) (inform customer of interchangeable product);

(c) contravenes section 5 (dispense interchangeable when generic prescribed);

- (d) contravenes section 6 (usual and customary dispensing fee set and posted);
- (e) contravenes section 7 (maximum allowable charge);
- (f) contravenes section 9 (dispense entire quantity);
- (g) contravenes section 10 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 12,

and any director or officer of a corporation who authorizes or permits such a contravention by a corporation is guilty of an offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing conditions to be met by products or by manufacturers of products in order to be designated as interchangeable with other products;
- (b) designating a product as interchangeable with one or more other products where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be designated as interchangeable with another product if,
 - (i) it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the other product, or
 - (ii) the product or its manufacturer has not met the conditions described in clause (a);
- (c) providing for the maximum amounts chargeable for drug products (section 7);
- (d) prescribing circumstances in which persons may charge more than their usual and customary dispensing fees.

(2) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of the Ontario College of Pharmacists may make regulations, Idem

- (a) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 4 (3));
- (b) prescribing the information to be included in a notice (subsection 6 (4)) and the manner of posting a notice;
- (c) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 9 (2));
- (d) designating specific drugs that are to be exempt from the application of subsection 9 (1);
- (e) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 10);
- (f) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained.

(3) Where the Minister requests in writing that the Council of the Ontario College of Pharmacists make, amend or revoke a regulation under subsection (2) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. Idem

(4) A regulation made under subsection (1) or (2) may be general or particular in its application. Idem

15.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Prescription Drug Cost Regulation Act, 1986*.

Bill 55

*(Chapter 28
Statutes of Ontario, 1986)*

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

Bill 55

1986

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Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

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R.S.O. 1980,
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“inspector” means a person appointed under section 12 of this Act;

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“operator of a pharmacy” means the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“Registrar” means the Registrar of the Ontario College of Pharmacists;

“regulations” means the regulations made under this Act.

Application
of this Act

R.S.O. 1980,
c. 410

2. This Act does not apply to the dispensing of a drug in or by a hospital approved as a public hospital under the *Public Hospitals Act* if the drug is dispensed for a patient or an out-patient of the hospital.

Over the
counter
drugs
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3. Subsections 4 (2) and (3) and sections 5, 6, 7, 9 and 10 do not apply in respect of an interchangeable product that does not require a prescription for sale.

Substitution
where named
product

4.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

Request for
interchange-
able
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(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person for whom the product was prescribed or the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

Inform
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(3) If a prescription directs the dispensing of a specific interchangeable product, the dispenser shall not supply that product without informing the person for whom the product was prescribed or the person presenting the prescription, in the manner prescribed by the regulations, of the right to request an interchangeable product.

Exceptions

(4) Subsection (3) does not apply if,

(a) the amount to be charged for supplying the product specified in the prescription is not more than the least amount that would have been charged for supplying a product that is interchangeable with it and available in the dispenser's inventory;

1986, c. 27

(b) a claim for payment will be submitted to the Minister of Health under section 5 of the *Ontario Drug Benefit Act, 1986* in respect of the supplying of the product; or

(c) the product is being supplied pursuant to a repeat of the prescription.

Selection
of inter-
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(5) If a prescription directs the dispensing of a product that is not designated as an interchangeable product and there is an interchangeable product that contains a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the product prescribed, the dispenser may dispense the interchangeable product.

(6) Subsections (1), (2), (3) and (5) do not apply to a prescription that includes, Exception

(a) in the case of a written prescription, the handwritten words "no sub" or "no substitution"; or

(b) in any other case, a direction recorded by the dispenser that there be no substitution.

5. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug. Dispensing generic drug

6.—(1) Every operator of a pharmacy shall set a single specific amount as a usual and customary dispensing fee in respect of dispensing interchangeable products and shall file a statement with the Registrar setting out that fee. Maximum dispensing fee

(2) An operator of a pharmacy may change the usual and customary dispensing fee by filing a statement with the Registrar setting out the new fee. Change of fee

(3) The usual and customary dispensing fee becomes effective on the day the statement is received by the Registrar. Effective date of fee

(4) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the usual and customary dispensing fee filed with the Registrar and any other information prescribed by the regulations respecting the charge for interchangeable products. Notify customers

7.—(1) In this section, "best available price", in respect of a particular manufacturer's drug product in a particular dosage form and strength for which a prescription is dispensed, means the lowest price, calculated per gram, milliliter, capsule, tablet or other appropriate unit, for which that product in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario, Best available price

(a) as determined by the Minister from such sampling as the Minister considers appropriate; or

(b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

which price shall be prescribed by the regulations, and in calculating that price, the Lieutenant Governor in Council shall

deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature.

Determining
base price

(2) The base price for supplying a drug product pursuant to a prescription shall be,

1986, c. 27

- (a) where the drug product is not an interchangeable product and the product is a listed drug product as defined in the *Ontario Drug Benefit Act, 1986*, the best available price of that product;
- (b) where the person issuing the prescription has specified that there shall be no substitutions, the best available price of the product prescribed;
- (c) where the person presenting the prescription has requested the dispensing of a particular interchangeable product, the best available price of that product unless a greater amount is provided for in the regulations; and
- (d) in all other cases, the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

Maximum
charge for
supplying
drug
products

(3) No person shall charge more for supplying a drug product pursuant to a prescription than the sum of,

- (a) the base price determined under subsection (2);
- (b) the percentage of that price, not less than 10 per cent and not greater than 20 per cent, that is prescribed by the regulations; and
- (c) that person's usual and customary dispensing fee.

No
liability
for
dispensing
interchange-
able
products

8. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription, the dispenser or any person who is responsible in law for the acts of either of them on the grounds that an interchangeable product other than the one prescribed was dispensed.

Dispense
entire
quantity

9.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug prescribed at one time unless before the drug is dispensed the person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions. Exception

(3) The regulations may designate specific drugs that are to be exempt from the application of subsection (1). Idem

10. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged. Inform customer of cost of drugs

11. The Ontario College of Pharmacists is responsible for the enforcement of this Act in respect of operators of pharmacies and dispensers in pharmacies. Enforcement

12.—(1) The Ontario College of Pharmacists may appoint inspectors for the purpose of enforcing this Act. Inspectors

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy if the inspector believes on reasonable grounds that the records will assist the inspector in determining whether this Act and the regulations have been complied with. Examine books

(3) An inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. Copies

(4) An inspector may at any reasonable time on producing proper identification enter any business premises where the inspector believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

13.—(1) Any person who, Offence

(a) contravenes subsection 4 (2) (dispense product requested);

(b) contravenes subsection 4 (3) (inform customer of interchangeable product);

(c) contravenes section 5 (dispense interchangeable when generic prescribed);

(d) contravenes section 6 (usual and customary dispensing fee set and posted);

(e) contravenes section 7 (maximum allowable charge);

- (f) contravenes section 9 (dispense entire quantity);
- (g) contravenes section 10 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 12,

and any director or officer of a corporation who authorizes or permits such a contravention by a corporation is guilty of an offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing conditions to be met by products or by manufacturers of products in order to be designated as interchangeable with other products;
- (b) designating a product as interchangeable with one or more other products where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be designated as interchangeable with another product if,
 - (i) it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the other product, or
 - (ii) the product or its manufacturer has not met the conditions described in clause (a);
- (c) providing for the maximum amounts chargeable for drug products (section 7);
- (d) prescribing circumstances in which persons may charge more than their usual and customary dispensing fees.

Idem

(2) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of the Ontario College of Pharmacists may make regulations,

- (a) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 4 (3));

- (b) prescribing the information to be included in a notice (subsection 6 (2)) and the manner of posting a notice;
- (c) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 9 (2));
- (d) designating specific drugs that are to be exempt from the application of subsection 9 (1);
- (e) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 10);
- (f) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained.

(3) Where the Minister requests in writing that the Council of the Ontario College of Pharmacists make, amend or revoke a regulation under subsection (2) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. Idem

(4) A regulation made under subsection (1) or (2) may be general or particular in its application. Idem

15.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

17. The short title of this Act is the *Prescription Drug Cost Regulation Act, 1986*. Short title

Bill 55

(Chapter 28
Statutes of Ontario, 1986)

An Act to provide for the Protection of the Public in respect of the Cost of Certain Prescription Drugs

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

(Reprint—Correction of printing error—s. 7 (2, 3))

Bill 55

1986

**An Act to provide for the
Protection of the Public in respect of the
Cost of Certain Prescription Drugs**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“designated” means designated by the regulations;

“dispenser” means a person who dispenses a drug pursuant to a prescription;

“drug” means a drug as defined in clause 113 (1) (d) of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“inspector” means a person appointed under section 12 of this Act;

“interchangeable product” means a drug or combination of drugs identified by a specific product name or manufacturer and designated as interchangeable with one or more other such products;

“operator of a pharmacy” means the holder of a certificate of accreditation for the operation of a pharmacy under section 135 of the *Health Disciplines Act*;

“prescription” means a direction from a person authorized to prescribe drugs within the scope of his or her practice of a health discipline directing the dispensing of a drug or mixture of drugs for a specified person;

“Registrar” means the Registrar of the Ontario College of Pharmacists;

“regulations” means the regulations made under this Act.

Application
of this Act

R.S.O. 1980,
c. 410

Over the
counter
drugs
excepted

Substitution
where named
product

Request for
interchange-
able
product

Inform
customer

Exceptions

1986, c. 27

Selection
of inter-
changeable
product

2. This Act does not apply to the dispensing of a drug in or by a hospital approved as a public hospital under the *Public Hospitals Act* if the drug is dispensed for a patient or an out-patient of the hospital.

3. Subsections 4 (2) and (3) and sections 5, 6, 7, 9 and 10 do not apply in respect of an interchangeable product that does not require a prescription for sale.

4.—(1) If a prescription directs the dispensing of a specific interchangeable product, the dispenser may dispense in its place another product that is designated as interchangeable with it.

(2) If a prescription directs the dispensing of a specific interchangeable product, the dispenser, on the request of the person for whom the product was prescribed or the person presenting the prescription, shall dispense in its place another product that is designated as interchangeable with it.

(3) If a prescription directs the dispensing of a specific interchangeable product, the dispenser shall not supply that product without informing the person for whom the product was prescribed or the person presenting the prescription, in the manner prescribed by the regulations, of the right to request an interchangeable product.

(4) Subsection (3) does not apply if,

(a) the amount to be charged for supplying the product specified in the prescription is not more than the least amount that would have been charged for supplying a product that is interchangeable with it and available in the dispenser's inventory;

(b) a claim for payment will be submitted to the Minister of Health under section 5 of the *Ontario Drug Benefit Act, 1986* in respect of the supplying of the product; or

(c) the product is being supplied pursuant to a repeat of the prescription.

(5) If a prescription directs the dispensing of a product that is not designated as an interchangeable product and there is an interchangeable product that contains a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the product prescribed, the dispenser may dispense the interchangeable product.

(6) Subsections (1), (2), (3) and (5) do not apply to a prescription that includes, Exception

- (a) in the case of a written prescription, the handwritten words "no sub" or "no substitution"; or
- (b) in any other case, a direction recorded by the dispenser that there be no substitution.

5. If a prescription directs the dispensing of a drug for which there are interchangeable products without identifying a specific product name or manufacturer, the dispenser shall dispense an interchangeable product of that drug. Dispensing generic drug

6.—(1) Every operator of a pharmacy shall set a single specific amount as a usual and customary dispensing fee in respect of dispensing interchangeable products and shall file a statement with the Registrar setting out that fee. Maximum dispensing fee

(2) An operator of a pharmacy may change the usual and customary dispensing fee by filing a statement with the Registrar setting out the new fee. Change of fee

(3) The usual and customary dispensing fee becomes effective on the day the statement is received by the Registrar. Effective date of fee

(4) Every operator of a pharmacy shall post in the pharmacy, in the manner prescribed by the regulations, a notice containing the usual and customary dispensing fee filed with the Registrar and any other information prescribed by the regulations respecting the charge for interchangeable products. Notify customers

7.—(1) In this section, "best available price", in respect of a particular manufacturer's drug product in a particular dosage form and strength for which a prescription is dispensed, means the lowest price, calculated per gram, milliliter, capsule, tablet or other appropriate unit, for which that product in that dosage form and strength can be purchased in Canada for wholesale or retail sale in Ontario, Best available price

- (a) as determined by the Minister from such sampling as the Minister considers appropriate; or
- (b) as estimated by the Minister, if the Minister considers the information reasonably available to the Minister is insufficient for the purpose of ascertaining the best available price,

which price shall be prescribed by the regulations, and in calculating that price, the Lieutenant Governor in Council shall

deduct the value of any price reduction granted by the manufacturer or wholesaler or their representatives in the form of rebates, discounts, refunds, free goods or any other benefits of a like nature.

Determining
base price

(2) The base price for supplying a drug product pursuant to a prescription shall be,

1986, c. 27

- (a) where the drug product is not an interchangeable product and the product is a listed drug product as defined in the *Ontario Drug Benefit Act, 1986*, the best available price of that product;
- (b) where the person issuing the prescription has specified that there shall be no substitutions, the best available price of the product prescribed;
- (c) where the person presenting the prescription has requested the dispensing of a particular interchangeable product, the best available price of that product; and
- (d) in all other cases, the best available price that is the lowest among the products in the person's inventory that are interchangeable with the product supplied.

Maximum
charge for
supplying
drug
products

(3) No person shall charge more for supplying a drug product pursuant to a prescription than the sum of,

- (a) the base price determined under subsection (2);
- (b) the percentage of that price, not less than 10 per cent and not greater than 20 per cent, that is prescribed by the regulations; and
- (c) that person's usual and customary dispensing fee unless a greater amount is provided for in the regulations.

No
liability
for
dispensing
interchange-
able
products

8. If an interchangeable product is dispensed in accordance with this Act, no action or other proceeding lies or shall be instituted against the person who issued the prescription, the dispenser or any person who is responsible in law for the acts of either of them on the grounds that an interchangeable product other than the one prescribed was dispensed.

Dispense
entire
quantity

9.—(1) Every person who dispenses a drug pursuant to a prescription shall dispense the entire quantity of the drug prescribed at one time unless before the drug is dispensed the

person presenting the prescription in writing authorizes the dispensing of the drug in smaller quantities.

(2) Despite subsection (1), the regulations may authorize dispensing a drug in less than the entire quantity prescribed under specified conditions. Exception

(3) The regulations may designate specific drugs that are to be exempt from the application of subsection (1). Idem

10. Every person who dispenses a drug pursuant to a prescription shall provide with the drug, in the manner prescribed by the regulations, particulars of the amount charged. Inform customer of cost of drugs

11. The Ontario College of Pharmacists is responsible for the enforcement of this Act in respect of operators of pharmacies and dispensers in pharmacies. Enforcement

12.—(1) The Ontario College of Pharmacists may appoint inspectors for the purpose of enforcing this Act. Inspectors

(2) An inspector may examine any records, in whatever form, in the possession or under the control of an operator of a pharmacy if the inspector believes on reasonable grounds that the records will assist the inspector in determining whether this Act and the regulations have been complied with. Examine books

(3) An inspector may, upon giving a receipt for it, take away a record for the purpose of making a copy, but the copy shall be made and the record shall be returned as promptly as reasonably possible. Copies

(4) An inspector may at any reasonable time on producing proper identification enter any business premises where the inspector believes a record referred to in subsection (2) may be located for the purpose of an inspection. Entry

13.—(1) Any person who, Offence

(a) contravenes subsection 4 (2) (dispense product requested);

(b) contravenes subsection 4 (3) (inform customer of interchangeable product);

(c) contravenes section 5 (dispense interchangeable when generic prescribed);

- (d) contravenes section 6 (usual and customary dispensing fee set and posted);
- (e) contravenes section 7 (maximum allowable charge);
- (f) contravenes section 9 (dispense entire quantity);
- (g) contravenes section 10 (inform person of cost); or
- (h) obstructs any person carrying out an inspection under section 12,

and any director or officer of a corporation who authorizes or permits such a contravention by a corporation is guilty of an offence under this Act and liable to a penalty of not more than \$10,000.

Idem

(2) The maximum penalty that may be imposed upon a corporation is \$50,000 and not as provided in subsection (1).

Regulations

14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing conditions to be met by products or by manufacturers of products in order to be designated as interchangeable with other products;
- (b) designating a product as interchangeable with one or more other products where the Lieutenant Governor in Council considers it advisable in the public interest to do so, but a product shall not be designated as interchangeable with another product if,
 - (i) it does not contain a drug or drugs in the same amounts of the same active ingredients in the same dosage form as the other product, or
 - (ii) the product or its manufacturer has not met the conditions described in clause (a);
- (c) providing for the maximum amounts chargeable for drug products (section 7);
- (d) prescribing circumstances in which persons may charge more than their usual and customary dispensing fees.

(2) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of the Ontario College of Pharmacists may make regulations, ^{Idem}

- (a) prescribing the manner in which persons shall be informed of the right to request an interchangeable product (subsection 4 (3));
- (b) prescribing the information to be included in a notice (subsection 6 (4)) and the manner of posting a notice;
- (c) authorizing dispensing a drug in less than the entire quantity prescribed and specifying the conditions under which that authority is to apply (subsection 9 (2));
- (d) designating specific drugs that are to be exempt from the application of subsection 9 (1);
- (e) prescribing the information concerning cost to be provided on sale and how it is to be provided (section 10);
- (f) requiring operators of pharmacies to retain specified records respecting their purchase of drugs for the purposes of this Act and prescribing the period of time those records shall be retained.

(3) Where the Minister requests in writing that the Council of the Ontario College of Pharmacists make, amend or revoke a regulation under subsection (2) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. ^{Idem}

(4) A regulation made under subsection (1) or (2) may be general or particular in its application. ^{Idem}

15.—(1) Clauses 113 (1) (e) and (i) of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 155 of the said Act is repealed.

(3) Clause 158 (2) (b) of the said Act is repealed.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Prescription Drug Cost Regulation Act, 1986*.

Bill 56

An Act to provide for the Observance of Remembrance Day

Mr. Foulds

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to ensure that Remembrance Day is observed as a general holiday on November 11th.

Bill 56

1986

**An Act to provide for the
Observance of Remembrance Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- | | |
|--|--|
| <p>1. Remembrance Day, being the 11th day of November in each year, is a public holiday for the purposes of Part VII of the <i>Employment Standards Act</i> and is a school holiday for the purposes of the <i>Education Act</i>.</p> | <p>Holiday
proclaimed</p> <p>R.S.O. 1980,
cc. 137, 129</p> |
| <p>2. This Act comes into force on the day it receives Royal Assent.</p> | <p>Commence-
ment</p> |
| <p>3. The short title of this Act is the <i>Remembrance Day Act</i>, 1986.</p> | <p>Short title</p> |

Bill 57

An Act to amend the Upholstered and Stuffed Articles Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading June 5th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to update the definition of Director, the reference to the Consumer Protection Division being no longer appropriate. The Registrar of Upholstered and Stuffed Articles is replaced by the Director of the Upholstered and Stuffed Articles Branch. The maximum penalties are being increased.

Bill 57

1986

An Act to amend the Upholstered and Stuffed Articles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Upholstered and Stuffed Articles Act*, being chapter 517 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) "Director" means the Director of the Upholstered and Stuffed Articles Branch.

(2) Clause 1 (1) (j) of the said Act is repealed.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3. There shall be a Director of the Upholstered and Stuffed Articles Branch who shall be appointed by the Lieutenant Governor in Council to exercise the powers and perform the duties conferred or imposed on the Director under this Act. Director

3.—(1) Subsection 26 (1) of the said Act is amended by striking out "\$500" in the tenth line and inserting in lieu thereof "\$2,000" and by striking out "\$2,000" in the eleventh line and inserting in lieu thereof "\$10,000".

(2) Subsection 26 (2) of the said Act is amended by striking out "\$500" in the fourth line and inserting in lieu thereof "\$2,000".

4. Section 27 of the said Act is amended by striking out "\$250" in the fifth line and inserting in lieu thereof "\$1,000".

5. The said Act and the regulations thereunder are amended by striking out "Registrar" wherever it occurs and inserting in lieu thereof in each instance "Director".

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Upholstered and Stuffed Articles Amendment Act, 1986*.

Bill 58

An Act to amend the Time Act

Mr. McClellan

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would extend daylight saving time from the first Sunday in April to the first Sunday in November, subject to variation by regulation, thus providing for seven months of daylight saving time per year in Ontario.

Daylight saving time is not now subject to provincial or federal legislation. It is now applied by municipal ordinance from the last Sunday in April, i.e., about 8 weeks before the summer equinox on June 21, to the last Sunday in October, i.e., approximately four months after June 21. The Bill would extend this to a period from about three months before to about four months after the summer equinox.

Bill 58

1986

An Act to amend the Time Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (3) of the *Time Act*, being chapter 501 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Standard time as fixed by subsections (1) and (2) shall be advanced by one hour from 2 a.m. on the first Sunday in April of each year until 2 a.m. on the first Sunday in November of each year. Daylight saving time

(4) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection (1), (2) or (3). Power to vary

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Time Amendment Act*, 1986. Short title

Bill 58

An Act to amend the Time Act

Mr. McClellan

1st Reading April 22nd, 1986

2nd Reading April 22nd, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill would extend daylight saving time from the first Sunday in April to the last Sunday in October, subject to variation by regulation, thus providing for nearly seven months of daylight saving time per year in Ontario.

Daylight saving time is not now subject to provincial or federal legislation. It is now applied by municipal ordinance from the last Sunday in April, i.e., about 8 weeks before the summer equinox on June 21, to the last Sunday in October, i.e., approximately four months after June 21. The Bill would extend this to a period from about three months before to about four months after the summer equinox.

Bill 58

1986

An Act to amend the Time Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Time Act*, being chapter 501 of the Revised Statutes of Ontario, 1980, is amended by striking out "time reckoned as standard time" in the seventh and eighth lines and inserting in lieu thereof "the time in effect as provided by this Act".

2. Subsection 2 (3) of the said Act is repealed and the following substituted therefor:

(3) Daylight saving time shall be reckoned as one hour ahead of standard time. Daylight saving time

(4) The time in effect shall be, Time in effect

(a) daylight saving time during the period between 2 a.m. standard time on the first Sunday in April and 2 a.m. daylight saving time on the last Sunday in October; and

(b) standard time during the rest of the year.

(5) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time and daylight saving time as fixed by subsection (1), (2) or (3) and varying the time in effect as fixed by subsection (4). Power to vary

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Time Amendment Act, 1986*. Short title

Bill 58

*(Chapter 56
Statutes of Ontario, 1986)*

An Act to amend the Time Act

Mr. McClellan

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	November 27th, 1986
<i>Royal Assent</i>	November 27th, 1986

Bill 58

1986

An Act to amend the Time Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Time Act*, being chapter 501 of the Revised Statutes of Ontario, 1980, is amended by striking out "time reckoned as standard time" in the seventh and eighth lines and inserting in lieu thereof "the time in effect as provided by this Act".

2. Subsection 2 (3) of the said Act is repealed and the following substituted therefor:

(3) Daylight saving time shall be reckoned as one hour ahead of standard time. Daylight saving time

(4) The time in effect shall be, Time in effect

(a) daylight saving time during the period between 2 a.m. standard time on the first Sunday in April and 2 a.m. daylight saving time on the last Sunday in October; and

(b) standard time during the rest of the year.

(5) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time and daylight saving time as fixed by subsection (1), (2) or (3) and varying the time in effect as fixed by subsection (4). Power to vary

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Time Amendment Act, 1986*. Short title

Bill 59

An Act to amend the Residential Tenancies Act

Mr. McFadden

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill removes the exemption from rent review granted to non-profit housing projects.

Bill 59

1986

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 134 (1) (b) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) a rental unit situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada).

R.S.C. 1970.
c. N-10

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Residential Tenancies Amendment Act, 1986*.

Short title

Bill 60

An Act respecting a Register of Ontario Land Information

Mr. Martel

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would authorize the creation of a public register showing the ownership of all privately held land in Ontario, the use of the land, and whether its owner is a resident or non-resident of Canada. Every owner, purchaser or vendor of an interest in land in Ontario would be subject to a reporting requirement.

Bill 60

1986

**An Act respecting a
Register of Ontario Land Information**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “Director” means the Director appointed under this Act;
- (b) “interest in land” means the fee or the equity of redemption in or a power or right to grant, assign or exercise a power of appointment in respect of land;
- (c) “non-resident corporation” means a corporation, regardless of the jurisdiction in which it was formed or organized, that,
 - (i) is controlled directly or indirectly by one or more non-resident persons,
 - (ii) has issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to one or more non-resident persons,
 - (iii) has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to any one non-resident person,
 - (iv) has a board of directors, one-half or more of which is composed of non-resident persons, or
 - (v) in the case of a corporation without share capital, has a membership, one-half or more of which is composed of non-resident persons;

(d) "non-resident person" means,

- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
- (ii) a non-resident corporation,
- (iii) a partnership, syndicate, association or other organization of which one-half or more of the members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, association or organization are beneficially owned by non-resident persons, or
- (iv) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iii) hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom;

(e) "prescribed" means prescribed by the regulations made under this Act.

Ordinarily
resident
defined

(2) For the purpose of clause (1) (d), an individual shall be considered to be ordinarily resident in Canada if at the time the expression is being applied, the individual,

- (a) has sojourned in Canada during the next preceding twenty-four months for a period of, or periods the aggregate of which is, 366 days or more;
- (b) is a member of the Canadian Forces required to reside outside Canada;
- (c) is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (d) is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is pre-

scribed for the purposes of paragraph 250 (1) (d) of the *Income Tax Act* (Canada), and resided in Canada at any time in the three month period preceding the day on which such services commenced; or

R.S.C. 1952,
c. 148

- (e) resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (b), (c) or (d).

2.—(1) Every person who holds an interest in land in Ontario on the 31st day of December, 1985 shall, on or before the 1st day of April, 1986, file with the Director a report in the prescribed form,

Report re
ownership
and use

- (a) setting out the person's interest in the land;
- (b) describing the use of the land;
- (c) declaring whether the person is a non-resident person; and
- (d) setting out the municipal address and a brief description of the land.

(2) Every person who acquires an interest in land in Ontario, whether by way of a conveyance, purchase of shares in a corporation that has such an interest, or otherwise, on or after the 31st day of December, 1985, shall, within ninety days after the date of the conveyance or acquisition, file with the Director a report in the prescribed form,

Idem

- (a) setting out the person's interest in the land;
- (b) describing the use of the land;
- (c) declaring whether the person is a non-resident person; and
- (d) setting out the municipal address and a brief description of the land.

(3) Every person who disposes of or conveys away an interest in land in Ontario after filing a report with respect to the land under subsection (1) or (2) shall, within ninety days after the date of the disposition or conveyance, file with the Director a notice in the prescribed form.

Notice re
disposition

(4) Where a person files a report or notice under this section respecting an interest in land and the report or notice or accompanying material,

Where
registration
report not
required

- (a) provides information on other persons who are also required to file a report or notice respecting the land; and
- (b) the information supplied under clause (a) is equivalent in nature and extent to the information required of a person filing a report or notice,

those other persons are not required to file a separate registration report respecting that land.

When
resident
deemed to
be
non-resident

3. For the purposes of this Act, where a person who is a resident of Canada has acquired or acquires an interest in land and knowingly holds that interest on behalf of a non-resident person, by agreement or otherwise, the first-named person shall be deemed to be a non-resident person in respect of that interest.

Contents of
report and
notice

4. Every report and notice shall set forth the prescribed information.

Appointment
of Director

5. The Minister of Municipal Affairs may appoint a Director of a branch of the Ministry to administer and enforce this Act.

False
information

6. No person shall furnish false information in any report or notice filed under this Act.

Offence

7. Every person who contravenes any provision of this Act or the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Public
register

8. The Director shall maintain all reports and notices filed under section 2 in a register and shall make the register available for inspection and copying by the public at the Director's office during ordinary business hours.

Regulations

9. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of and the information to be contained in a report under subsection 2 (1) or (2);
- (b) prescribing the form of and the information to be contained in a notice under subsection 2 (3);
- (c) prescribing forms other than those mentioned in clauses (a) and (b) and providing for their use.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

11. The short title of this Act is the *Ontario Land Information Act, 1986*. Short title

Bill 61

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed new section 29 increases the vacation period to which an employee is entitled under the Act. Currently, the Act provides a two week vacation period for each employee that does not vary with the amount of employment service.

SECTION 2. The proposed amendment is complementary to section 1 of the Bill. Subsection 30 (1) of the Act as it currently reads is set out below with the amended portions underlined:

(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.

SECTION 3. The proposed amendment is complementary to section 1 of the Bill. Section 31 of the Act as it currently reads is set out below with the amended portions underlined:

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid.

Bill 61

1986

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

29.—(1) Every employer shall give to each employee a vacation with pay of at least, Vacations

- (a) two weeks in each year upon the completion of twelve months of employment;
- (b) three weeks in each year upon the completion of sixty months of employment;
- (c) four weeks in each year upon the completion of 120 months of employment; and
- (d) five weeks in each year upon the completion of 240 months of employment.

(2) The amount of pay for a vacation shall be not less than Idem
an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under subsection (1) and in calculating wages no account shall be taken of any vacation pay previously paid.

2. Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The employer shall determine the period when an employee may take the vacation to which he or she is entitled under section 29, which may be a consecutive period or periods of one week each, but in any case the employee shall be given his or her vacation not later than six months after the end of the twelve month period for which the vacation was given. When
vacation
to be taken

3. Section 31 of the said Act is repealed and the following substituted therefor:

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay under section 29, the employer shall pay to the employee an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under section 29, and in calculating wages no account shall be taken of any vacation pay previously paid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Employment Standards Amendment Act, 1986*.

Bill 62

An Act to protect and enhance the Quality of Drinking Water in Ontario

Mrs. Grier

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is intended to protect and enhance drinking water quality in Ontario.

It provides opportunities for public involvement in the making of regulations to set maximum permissible levels for contaminants and other substances in drinking water. These regulations would apply to both public and private water systems.

The operator of a public water system is required to monitor water quality regularly and notify the users of the system as well as the Minister of the Environment of the results. Any user of a private water system may have the water tested by the Ministry of the Environment.

It is an offence for the operator of a public water system to provide water which contravenes the regulations or to fail to comply with monitoring and notice requirements. It is an offence for anyone to pollute a public or private water system.

The Bill permits water users to sue to recover damages for contraventions of the Act and gives any person standing to seek judicial review against the Minister of the Environment.

The Minister is authorized to commission research into matters related to drinking water quality and an advisory council is created to assist the Minister.

Bill 62

1986

**An Act to protect and enhance the
Quality of Drinking Water in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Board" means the Water Review Board;
- (b) "contaminant" means any biological, chemical or physical agent or combination thereof prescribed as a contaminant;
- (c) "Gazette" means *The Ontario Gazette*;
- (d) "Minister" means the Minister of the Environment;
- (e) "prescribed" means prescribed by the regulations;
- (f) "private water system" means any water system that has fewer than fifteen service connections or regularly serves fewer than twenty-five individuals;
- (g) "public water supplier" means a person who operates a public water system;
- (h) "public water system" means any water system that has fifteen or more service connections or regularly serves twenty-five or more individuals;
- (i) "substance" means anything that affects the odour, appearance or taste of drinking water and is prescribed as a substance;
- (j) "user", when used in connection with a water system or public water supplier, means a person who obtains water from the system or supplier;

- (k) "water system" means any works for the collection, supply and distribution of water that may be used as drinking water.

Purpose

2. The purpose of this Act is the protection and enhancement of drinking water quality throughout Ontario.

DUTIES OF SUPPLIERS

Duties of
supplier

3. Every public water supplier shall,

- (a) conduct complete water tests in accordance with the regulations, monthly or more frequently as may be prescribed by regulation, to establish contaminant and substance levels and compliance with prescribed standards;
- (b) promptly publish the results of all tests conducted under clause (a) in a newspaper that is published in the community where the supplier's regular users reside;
- (c) supply the results of all tests conducted under clause (a) to every user together with the regular water bill;
- (d) promptly report the results of all tests conducted under clause (a) to the Minister;
- (e) keep full records of all tests conducted under clause (a) and make them available to any person upon request;
- (f) where a test reveals that maximum permitted contaminant levels or maximum permitted substance levels are exceeded or prescribed standards are not adhered to,
 - (i) take immediate steps to cause the water to comply with this Act and the regulations, and
 - (ii) make an alternate supply of safe drinking water available to all users until the main supply complies with this Act and the regulations.

PUBLIC INVOLVEMENT IN REGULATION-MAKING

Draft
regulations
concerning
contaminants

4.—(1) The Minister shall within 180 days after the day this Act comes into force publish in the Gazette a notice set-

ting forth proposed regulations under clause 14 (2) (b) and calling for briefs and submissions in connection therewith.

(2) Any person may within ninety days after the publication of a notice under subsection (1) or (6) require the Board to hold a hearing into any of the proposed regulations by delivering a notice of objection to the Board. Objection

(3) The Board shall hold any hearing required under subsection (2) expeditiously and may consolidate any such hearings where common issues are raised. Hearing

(4) Upon completion of all hearings under subsection (2), the Board shall report its findings and conclusions to the Minister and shall provide a copy of the report to every person who delivered a notice of objection under subsection (2). Report

(5) Regulations under clause 14 (2) (b) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(6) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (b), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

5.—(1) The Minister shall within 240 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (c) and calling for briefs and submissions in connection therewith. Draft regulations concerning substances

(2) Regulations under clause 14 (2) (c) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(3) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (c), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

OFFENCES

6.—(1) No public water supplier shall cause or permit to be supplied to users, Supplying unsafe water

- (a) water containing any contaminant that exceeds the applicable maximum permitted level; or

- (b) water containing any substance that contravenes a prescribed standard or exceeds the applicable maximum permitted level.

Polluting
water
system

(2) No person shall deposit in, add to, emit or discharge into a public water system or a private water system any contaminant or substance so as to cause the water to exceed the maximum permitted level for the contaminant or substance or to contravene a prescribed standard.

Penalties

7. Any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to,

- (a) in the case of a contravention of section 6 that relates to a contaminant, a fine not exceeding \$50,000; and

- (b) in the case of any other contravention, a fine not exceeding \$25,000.

PRIVATE REMEDIES

Action for
damages

8.—(1) Any person may, by action, recover damages caused by a contravention of this Act or the regulations from the person who committed the contravention.

Judicial
review

(2) Any person may apply for judicial review of the Minister's exercise or non-exercise of any power or fulfilment or non-fulfilment of any duty conferred or imposed on the Minister by this Act, whether or not the person applying is specially affected or has suffered special damages.

WATER REVIEW BOARD AND WATER ADVISORY COUNCIL

Water
Review
Board
established

9.—(1) The Water Review Board is hereby established and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuneration

(4) The members of the Board may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and the member has all the powers of the Board for the purpose of the hearing.

One member
may conduct
hearing

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

Report

10.—(1) The Water Advisory Council is hereby established and shall consist of not fewer than ten and not more than fifteen persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Water
Advisory
Council
established

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman.

Chairman
and vice-
chairman

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to drinking water quality.

Members

(4) A retiring member of the Council is eligible for reappointment.

Reappoint-
ments

(5) The members of the Council may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Remuneration

11. The Water Advisory Council, through its chairman, shall,

Duties of
Council

(a) advise the Minister as to the results of current research related to,

(i) drinking water quality, and

(ii) contaminants and substances and their effects;
and

(b) consider any matter affecting drinking water quality that the Council or the Minister considers advisable and advise the Minister thereon.

STUDIES

12. The Minister shall cause research to be conducted into,

Research

- (a) the causes, diagnosis, treatment, control and prevention of health effects associated with contaminants or substances;
- (b) the quality, quantity and availability of private water supplies;
- (c) the sources of surface and ground water contamination; and
- (d) methods of treating or purifying drinking water.

Testing of
private
water
system

13. The Minister shall, at the request of any user of a private water system, cause the water to be tested in accordance with the regulations to establish contaminant and substance levels and compliance with prescribed standards.

Regulations

14.—(1) The Lieutenant Governor in Council may make such regulations as are advisable to protect and enhance drinking water quality throughout Ontario.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) designating any biological, chemical or physical agents or combinations thereof as contaminants and prescribing maximum permissible contaminant levels;
- (b) designating anything as a substance, prescribing standards for substances in water and prescribing maximum permissible substance levels;
- (c) respecting procedures for water tests to be conducted under clause 3 (a) and section 13; and
- (d) prescribing greater frequencies than monthly for water tests to be conducted under clause 3 (a) and prescribing the circumstances under which such more frequent tests shall be conducted.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Ontario Safe Drinking Water Act, 1986*.

Bill 63

An Act to amend the Travel Industry Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading June 5th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Definitions of travel agent and wholesaler are being modified and made a little broader in their scope. The reference to a travel salesman is removed. This deletion is complementary to section 2 of the Bill.

SECTION 2. The section is recast to clarify that agents and wholesalers are respectively registered as such. The requirement for a salesman to be registered is removed.

SECTION 3. The amendment is complementary to section 4 of the Bill.

SECTION 4. The provisions repealed refer to travel salesmen who will not be registered under the Act.

SECTION 5. Section 21 of the Act is the "confidentiality provision". The added clauses enlarge on the exceptions to the confidentiality rule.

SECTION 6. The new provision permits the Director to apply for a court order appointing a receiver and manager of a business where it appears in the public interest to do so.

SECTION 7. Section 22 now permits the Director to freeze assets or land of a business. The new provision would allow for a court order directing the disposition of frozen assets.

SECTION 8. This clarifies the authority to make regulations establishing and regulating a compensation fund.

Bill 63

1986

An Act to amend the Travel Industry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (e), (f) and (h) of the *Travel Industry Act*, being chapter 509 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(e) "travel agent" means a person who sells, to consumers, travel services provided by another person;

(h) "travel wholesaler" means a person who acquires rights to a travel service for the purpose of resale to a travel agent or who carries on the business of dealing with travel agents or travel wholesalers for the sale of travel services provided by another person.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) No person shall act or hold himself out as being available to act as a travel agent unless he is registered as a travel agent by the Registrar. Acting as travel agent

(2) No person shall act or hold himself out as being available to act as a travel wholesaler unless he is registered as a travel wholesaler by the Registrar. Acting as travel wholesaler

(3) No travel agent shall conduct business from a place at which the public is invited to deal unless it is named as an office in the registration. Offices of travel agents

(4) Where more than one office is named in the registration, one shall be designated as the main office and the remainder as branch offices. Idem

3. Subsections 4 (3) and (4) of the said Act are repealed and the following substituted therefor:

Integrity

1976-77,
c. 52 (Can.)

(4) Without restricting the generality of clause (1) (b) and subclause (1) (c) (iii), a conviction within the previous five years for theft or for an offence under paragraph 95 (h), (i), (j) or (m) of the *Immigration Act, 1976* (Canada) is sufficient grounds for the purpose of those provisions.

4. Sections 12 and 14 of the said Act are repealed and the following substituted therefor:

Notice of
material
changes

12. Every travel agent and travel wholesaler shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in its address for service; and
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

5. Subsection 21 (1) of the said Act is amended by adding thereto the following clauses:

- (aa) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act;
- (ab) to a law enforcement agency.

6. The said Act is amended by adding thereto the following section:

Appointment
of receiver
and manager

21a.—(1) The Director may when he,

- (a) has ordered or is about to order an investigation under section 20;
- (b) has made or is about to make a directive under section 22;
- (c) has reasonable and probable grounds to believe that a person registered under this Act has failed or is about to fail to provide contracted and paid for travel services to a client;
- (d) is advised that a proposal to suspend or revoke a registration under section 5 or to temporarily suspend a registration under section 7 has been made; or

- (e) is advised that an investigation under section 19 has been ordered,

apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved travel agent or travel wholesaler.

(2) A judge, upon an application without notice being made under subsection (1), may, where he considers it in the public interest and subject to the *Bankruptcy Act*, appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1970,
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in his opinion should be taken toward its rehabilitation and, for such purposes, the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Receiver
and manager
taking
control

- (a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and

- (b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business, receive the incomes and revenues of the business.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Enforcement
of order

(6) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Rules of
practice

7. Section 22 of the said Act is amended by adding thereto the following subsection:

Application
re disposition

(6) The Director may, where he has given a direction under subsection (1) or a notice under subsection (4), apply to a judge or a local judge of the Supreme Court who may make an order as to the disposition of assets, trust funds or land affected by the direction or notice and as to costs.

8.—(1) Clause 27 (j) of the said Act is repealed.

(2) Section 27 of the said Act is amended by adding thereto the following clauses:

- (o) providing for the establishment, maintenance and administration of a compensation fund in trust by travel agents and travel wholesalers and prescribing the form and terms of the trust;
- (p) providing for the payment of levies into the compensation fund by travel agents and travel wholesalers and prescribing the amounts thereof;
- (q) providing for payment out of the compensation fund of claims and procedures to be followed in respect thereto;
- (r) requiring participation in the compensation fund by travel agents and travel wholesalers;
- (s) providing for the borrowing of moneys to supplement the compensation fund.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Travel Industry Amendment Act, 1986*.

Bill 64

An Act to amend the Dog Owners' Liability Act

Mr. Wildman

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Under the *Dog Owners' Liability Act*, a dog owner is liable for damages resulting from a bite or attack by the dog on another person. This Bill extends the liability to a bite or attack on another animal, if the animal is under a person's control. It exempts those cases where liability is provided for under the *Dog Licensing and Live Stock and Poultry Protection Act*.

Bill 64

1986

An Act to amend the Dog Owners' Liability Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 (1) of the *Dog Owners' Liability Act*, being chapter 124 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof "or on another animal if the other animal is under a person's control".

(2) Section 2 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to damage resulting from a bite or attack on live stock or poultry as defined by section 8 of the *Dog Licensing and Live Stock and Poultry Protection Act*.

Exception

R.S.O. 1980,
c. 123

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Dog Owners' Liability Amendment Act, 1986*.

Short title

Bill 65

An Act to amend the Labour Relations Act

The Hon. W. Wrye
Minister of Labour

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the settlement of first collective agreements by arbitration where collective bargaining has been frustrated.

Bill 65

1986

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

40a.—(1) Where the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Board to direct the settlement of a first collective agreement by arbitration.

First
agreement
arbitration

(2) The Board shall consider and make its decision on an application under subsection (1) within thirty days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration where it appears to the Board that collective bargaining has been frustrated because of,

Duty of
Board

- (a) the refusal of the employer to recognize the bargaining authority of the trade union;
- (b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;
- (c) the failure of the respondent to make reasonable efforts to conclude a collective agreement; or
- (d) any other reason the Board considers relevant.

(3) Where a direction is given under subsection (2), the first collective agreement between the parties shall be settled by a board of arbitration unless within seven days of the giving of the direction the parties notify the Board that they have agreed that the Board arbitrate the settlement.

Choice of
arbitrator

Arbitration
by Board

(4) Where the parties give notice to the Board of their agreement that the Board arbitrate the settlement of the first collective agreement, the Board,

- (a) shall appoint a date for and commence a hearing within twenty-one days of the giving of the notice to the Board; and
- (b) shall determine all matters in dispute and release its decision within forty-five days of the commencement of the hearing.

Private
arbitration

(5) Where the parties do not agree that the Board arbitrate the settlement of the first collective agreement, each party, within ten days of the giving of the direction under subsection (2), shall inform the other party of the name of its appointee to the board of arbitration referred to in subsection (3) and the appointees so selected, within five days of the appointment of the second of them, shall appoint a third person who shall be the chairman.

Idem

(6) If a party fails to make an appointment as required by subsection (5) or if the appointees fail to agree upon a chairman with the time limited, the appointment shall be made by the Minister upon the request of either party.

Idem

(7) A board of arbitration appointed under this section shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions and section 108 applies to the board of arbitration, its decision and proceedings as if it were the Board.

Idem

(8) The remuneration and expenses of the members of a board of arbitration appointed under this section shall be paid as follows:

- 1. A party shall pay the remuneration and expenses of the member appointed by or on behalf of the party.
- 2. Each party shall pay one-half of the remuneration and expenses of the chairman.

Idem

(9) A board of arbitration appointed under this section,

- (a) shall appoint a date for and commence a hearing within twenty-one days of the appointment of the chairman; and

- (b) shall determine all matters in dispute and release its decision within forty-five days of the commencement of the hearing.

(10) The Minister may appoint a mediator to confer with the parties and endeavour to effect a settlement prior to a hearing under subsection (4) or (9). Mediator

(11) The employees in the bargaining unit shall not strike and the employer shall not lock out such employees where a direction has been given under subsection (2) and, where such a direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced, Effect of direction on strike or lock-out

- (a) in accordance with any agreement between the employer and the trade union respecting reinstatement of the employees in the bargaining unit; or

- (b) where there is no agreement respecting reinstatement of the employees in the bargaining unit, on the basis of the length of service of each employee in relation to that of the other employees in the bargaining unit employed at the time the strike or lock-out commenced, except as may be directed by an order of the Board made for the purpose of allowing the employer to resume normal operations.

(12) The requirement to reinstate employees set out in subsection (11) applies notwithstanding that replacement employees may be performing the work of employees in the bargaining unit, but the said subsection does not apply so as to require reinstatement of an employee where, because of the permanent discontinuance of all or part of the business of the employer, the employer no longer has persons engaged in performing work of the same or a similar nature to work which the employee performed before the strike or lock-out. Non-application

(13) Where a direction has been given under subsection (2), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 14 shall continue in effect, or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled. Working conditions not to be altered

Non-application

(14) Subsection (13) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union.

Matters to be accepted or considered

(15) In arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment and account may be taken of,

- (a) whether the parties have made reasonable efforts to reach a collective agreement;
- (b) the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the bargaining unit; and
- (c) such other matters as the Board or board of arbitration considers relevant to a fair and reasonable settlement.

Effect of settlement

(16) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of its provisions are retroactive to such date as may be set out therein.

Extension of time

(17) The parties, by agreement, or the Minister may extend any time limit set out in this section, notwithstanding the expiration of such time.

Non-application

(18) This section does not apply to the construction industry.

Application

(19) This section applies to an employer and a trade union where the trade union has acquired or acquires bargaining rights for employees of the employer before or after the coming into force of this section and the bargaining rights have been acquired since the 1st day of January, 1984 and continue to exist at the time of an application under subsection (1).

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Labour Relations Amendment Act, 1986*.



Bill 65

An Act to amend the Labour Relations Act

The Hon. W. Wrye
Minister of Labour

1st Reading April 22nd, 1986

2nd Reading April 22nd, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTE

The purpose of the Bill is to provide for the settlement of first collective agreements by arbitration where collective bargaining has been frustrated.

Bill 65

1986


An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

40a.—(1) Where the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Board to direct the settlement of a first collective agreement by arbitration. First agreement arbitration

(2) The Board shall consider and make its decision on an application under subsection (1) within thirty days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration where, irrespective of whether section 15 has been contravened, it appears to the Board that the process of collective bargaining has been unsuccessful because of, Duty of Board

- (a) the refusal of the employer to recognize the bargaining authority of the trade union;
- (b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;
- (c) the failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement; or
- (d) any other reason the Board considers relevant. 

(3) Where a direction is given under subsection (2), the first collective agreement between the parties shall be settled by a board of arbitration unless within seven days of the giv- Choice of arbitrator

ing of the direction the parties notify the Board that they have agreed that the Board arbitrate the settlement.

Arbitration
by Board

(4) Where the parties give notice to the Board of their agreement that the Board arbitrate the settlement of the first collective agreement, the Board,

- (a) shall appoint a date for and commence a hearing within twenty-one days of the giving of the notice to the Board; and
- (b) shall determine all matters in dispute and release its decision within forty-five days of the commencement of the hearing.

Private
arbitration

(5) Where the parties do not agree that the Board arbitrate the settlement of the first collective agreement, each party, within ten days of the giving of the direction under subsection (2), shall inform the other party of the name of its appointee to the board of arbitration referred to in subsection (3) and the appointees so selected, within five days of the appointment of the second of them, shall appoint a third person who shall be the chairman.

Idem

(6) If a party fails to make an appointment as required by subsection (5) or if the appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.

Idem

(7) A board of arbitration appointed under this section shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions and section 108 applies to the board of arbitration, its decision and proceedings as if it were the Board.

Idem

(8) The remuneration and expenses of the members of a board of arbitration appointed under this section shall be paid as follows:

- 1. A party shall pay the remuneration and expenses of the member appointed by or on behalf of the party.
- 2. Each party shall pay one-half of the remuneration and expenses of the chairman.



Idem

R.S.O. 1980,
c. 205

(9) Subsections 6 (8), (9), (10), (12), (13), (14), (17) and (18) of the *Hospital Labour Disputes Arbitration Act* and subsections 44 (8) and (10) of this Act apply with necessary modifications to a board of arbitration established under this section.

(10) The date of the first hearing of a board of arbitration appointed under this section shall not be later than twenty-one days after the appointment of the chairman. Idem

(11) A board of arbitration appointed under this section shall determine all matters in dispute and release its decision within forty-five days of the commencement of its hearing of the matter. Idem

(12) The Minister may appoint a mediator to confer with the parties and endeavour to effect a settlement. Mediation

(13) The employees in the bargaining unit shall not strike and the employer shall not lock out such employees where a direction has been given under subsection (2) and, where such a direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced, Effect of direction on strike or lock-out

(a) in accordance with any agreement between the employer and the trade union respecting reinstatement of the employees in the bargaining unit; or

(b) where there is no agreement respecting reinstatement of the employees in the bargaining unit, on the basis of the length of service of each employee in relation to that of the other employees in the bargaining unit employed at the time the strike or lock-out commenced, except as may be directed by an order of the Board made for the purpose of allowing the employer to resume normal operations.

(14) The requirement to reinstate employees set out in subsection (13) applies notwithstanding that replacement employees may be performing the work of employees in the bargaining unit, but the said subsection does not apply so as to require reinstatement of an employee where, because of the permanent discontinuance of all or part of the business of the employer, the employer no longer has persons engaged in performing work of the same or a similar nature to work which the employee performed before the strike or lock-out. Non-application

(15) Where a direction has been given under subsection (2), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 14 shall continue in effect. Working conditions not to be altered

or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled.

Non-application

(16) Subsection (15) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union.

Matters to be accepted or considered

(17) In arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment.

Effect of settlement

(18) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of the terms of the agreement, except its term of operation, shall be retroactive to such day as the Board may fix, but not earlier than the day on which notice was given under section 14.

Extension of time

(19) The parties, by agreement in writing, or the Minister may extend any time limit set out in this section, notwithstanding the expiration of such time.

Non-application

(20) This section does not apply to the negotiation of a first collective agreement,

(a) where one of the parties is an employers' organization accredited under section 127 as a bargaining agent for employers; or

(b) where the agreement is a provincial agreement within the meaning of section 137.

Application

(21) This section applies to an employer and a trade union where the trade union has acquired or acquires bargaining rights for employees of the employer before or after the coming into force of this section and the bargaining rights have been acquired since the 1st day of January, 1984 and continue to exist at the time of an application under subsection (1).

Application for termination, etc.

(22) Notwithstanding subsection (2), where an application under subsection (1) has been filed with the Board and a final decision on the application has not been issued by it and there has also been filed with the Board, either or both,

(a) an application for a declaration that the trade union no longer represents the employees in the bargaining unit; and

- (b) an application for certification by another trade union as bargaining agent for employees in the bargaining unit,

the Board shall consider the applications in the order that it considers appropriate and if it grants one of the applications, it shall dismiss any other application described in this section that remains unconsidered.

(23) An application for a declaration that a trade union no longer represents the employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsection 57 (2). Idem

(24) An application for certification by another trade union as bargaining agent for employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsections 5 (4), (5) and (6). Idem

(25) The *Arbitrations Act* does not apply to an arbitration under this section. R S O. 1980.
c. 25
does not
apply

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1986*. Short title

Bill 65

An Act to amend the Labour Relations Act

The Hon. W. Wrye
Minister of Labour

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTE

The purpose of the Bill is to provide for the settlement of first collective agreements by arbitration where collective bargaining has been frustrated.

Bill 65

1986

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

40a.—(1) Where the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Board to direct the settlement of a first collective agreement by arbitration. First agreement arbitration

(2) The Board shall consider and make its decision on an application under subsection (1) within thirty days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration where, irrespective of whether section 15 has been contravened, it appears to the Board that the process of collective bargaining has been unsuccessful because of, Duty of Board

- (a) the refusal of the employer to recognize the bargaining authority of the trade union;
- (b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;
- (c) the failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement; or
- (d) any other reason the Board considers relevant. ▲

(3) Where a direction is given under subsection (2), the first collective agreement between the parties shall be settled by a board of arbitration unless within seven days of the giv- Choice of arbitrator

ing of the direction the parties notify the Board that they have agreed that the Board arbitrate the settlement.

Arbitration
by Board

(4) Where the parties give notice to the Board of their agreement that the Board arbitrate the settlement of the first collective agreement, the Board,

- (a) shall appoint a date for and commence a hearing within twenty-one days of the giving of the notice to the Board; and
- (b) shall determine all matters in dispute and release its decision within forty-five days of the commencement of the hearing.

Private
arbitration

(5) Where the parties do not agree that the Board arbitrate the settlement of the first collective agreement, each party, within ten days of the giving of the direction under subsection (2), shall inform the other party of the name of its appointee to the board of arbitration referred to in subsection (3) and the appointees so selected, within five days of the appointment of the second of them, shall appoint a third person who shall be the chairman.

Idem

(6) If a party fails to make an appointment as required by subsection (5) or if the appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.

Idem

(7) A board of arbitration appointed under this section shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions and section 108 applies to the board of arbitration, its decision and proceedings as if it were the Board.

Idem

(8) The remuneration and expenses of the members of a board of arbitration appointed under this section shall be paid as follows:

- 1. A party shall pay the remuneration and expenses of the member appointed by or on behalf of the party.
- 2. Each party shall pay one-half of the remuneration and expenses of the chairman.



Idem

R.S.O. 1980,
c. 205

(9) Subsections 6 (8), (9), (10), (12), (13), (14), (17) and (18) of the *Hospital Labour Disputes Arbitration Act* and subsections 44 (8) and (10) of this Act apply with necessary modifications to a board of arbitration established under this section.

(10) The date of the first hearing of a board of arbitration appointed under this section shall not be later than twenty-one days after the appointment of the chairman. Idem

(11) A board of arbitration appointed under this section shall determine all matters in dispute and release its decision within forty-five days of the commencement of its hearing of the matter. Idem

(12) The Minister may appoint a mediator to confer with the parties and endeavour to effect a settlement. Mediation

(13) The employees in the bargaining unit shall not strike and the employer shall not lock out such employees where a direction has been given under subsection (2) and, where such a direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced, Effect of direction on strike or lock-out

(a) in accordance with any agreement between the employer and the trade union respecting reinstatement of the employees in the bargaining unit; or

(b) where there is no agreement respecting reinstatement of the employees in the bargaining unit, on the basis of the length of service of each employee in relation to that of the other employees in the bargaining unit employed at the time the strike or lock-out commenced, except as may be directed by an order of the Board made for the purpose of allowing the employer to resume normal operations.

(14) The requirement to reinstate employees set out in subsection (13) applies notwithstanding that replacement employees may be performing the work of employees in the bargaining unit, but the said subsection does not apply so as to require reinstatement of an employee where, because of the permanent discontinuance of all or part of the business of the employer, the employer no longer has persons engaged in performing work of the same or a similar nature to work which the employee performed before the strike or lock-out. Non-application

(15) Where a direction has been given under subsection (2), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 14 shall continue in effect. Working conditions not to be altered

or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled.

Non-application

(16) Subsection (15) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union.

Matters to be accepted or considered

(17) In arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment.

Effect of settlement

(18) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of the terms of the agreement, except its term of operation, shall be retroactive to such day as the Board may fix, but not earlier than the day on which notice was given under section 14.

Extension of time

(19) The parties, by agreement in writing, or the Minister may extend any time limit set out in this section, notwithstanding the expiration of such time.

Non-application

(20) This section does not apply to the negotiation of a first collective agreement,

(a) where one of the parties is an employers' organization accredited under section 127 as a bargaining agent for employers; or

(b) where the agreement is a provincial agreement within the meaning of section 137.

Application

(21) This section applies to an employer and a trade union where the trade union has acquired or acquires bargaining rights for employees of the employer before or after the coming into force of this section and the bargaining rights have been acquired since the 1st day of January, 1984 and continue to exist at the time of an application under subsection (1).

Application for termination, etc.

(22) Notwithstanding subsection (2), where an application under subsection (1) has been filed with the Board and a final decision on the application has not been issued by it and there has also been filed with the Board, either or both,

(a) an application for a declaration that the trade union no longer represents the employees in the bargaining unit; and

- (b) an application for certification by another trade union as bargaining agent for employees in the bargaining unit,

the Board shall consider the applications in the order that it considers appropriate and if it grants one of the applications, it shall dismiss any other application described in this section that remains unconsidered.

(23) An application for a declaration that a trade union no longer represents the employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsection 57 (2). Idem

(24) An application for certification by another trade union as bargaining agent for employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsections 5 (4), (5) and (6). Idem

(25) The *Arbitrations Act* does not apply to an arbitration under this section. R.S.O. 1980, c. 25 does not apply

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Labour Relations Amendment Act, 1986*. Short title

Bill 65

*(Chapter 17
Statutes of Ontario, 1986)*

An Act to amend the Labour Relations Act

The Hon. W. Wrye
Minister of Labour

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	May 26th, 1986
<i>Royal Assent</i>	May 26th, 1986

Bill 65

1986

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

40a.—(1) Where the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Board to direct the settlement of a first collective agreement by arbitration.

First
agreement
arbitration

(2) The Board shall consider and make its decision on an application under subsection (1) within thirty days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration where, irrespective of whether section 15 has been contravened, it appears to the Board that the process of collective bargaining has been unsuccessful because of,

Duty of
Board

- (a) the refusal of the employer to recognize the bargaining authority of the trade union;
- (b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;
- (c) the failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement; or
- (d) any other reason the Board considers relevant.

(3) Where a direction is given under subsection (2), the first collective agreement between the parties shall be settled by a board of arbitration unless within seven days of the giv-

Choice of
arbitrator

ing of the direction the parties notify the Board that they have agreed that the Board arbitrate the settlement.

Arbitration
by Board

(4) Where the parties give notice to the Board of their agreement that the Board arbitrate the settlement of the first collective agreement, the Board,

- (a) shall appoint a date for and commence a hearing within twenty-one days of the giving of the notice to the Board; and
- (b) shall determine all matters in dispute and release its decision within forty-five days of the commencement of the hearing.

Private
arbitration

(5) Where the parties do not agree that the Board arbitrate the settlement of the first collective agreement, each party, within ten days of the giving of the direction under subsection (2), shall inform the other party of the name of its appointee to the board of arbitration referred to in subsection (3) and the appointees so selected, within five days of the appointment of the second of them, shall appoint a third person who shall be the chairman.

Idem

(6) If a party fails to make an appointment as required by subsection (5) or if the appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.

Idem

(7) A board of arbitration appointed under this section shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions and section 108 applies to the board of arbitration, its decision and proceedings as if it were the Board.

Idem

(8) The remuneration and expenses of the members of a board of arbitration appointed under this section shall be paid as follows:

1. A party shall pay the remuneration and expenses of the member appointed by or on behalf of the party.
2. Each party shall pay one-half of the remuneration and expenses of the chairman.

Idem

R.S.O. 1980,
c. 205

(9) Subsections 6 (8), (9), (10), (12), (13), (14), (17) and (18) of the *Hospital Labour Disputes Arbitration Act* and subsections 44 (8) and (10) of this Act apply with necessary modifications to a board of arbitration established under this section.

(10) The date of the first hearing of a board of arbitration appointed under this section shall not be later than twenty-one days after the appointment of the chairman. Idem

(11) A board of arbitration appointed under this section shall determine all matters in dispute and release its decision within forty-five days of the commencement of its hearing of the matter. Idem

(12) The Minister may appoint a mediator to confer with the parties and endeavour to effect a settlement. Mediation

(13) The employees in the bargaining unit shall not strike and the employer shall not lock out such employees where a direction has been given under subsection (2) and, where such a direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced. Effect of
direction on
strike or
lock-out

(a) in accordance with any agreement between the employer and the trade union respecting reinstatement of the employees in the bargaining unit; or

(b) where there is no agreement respecting reinstatement of the employees in the bargaining unit, on the basis of the length of service of each employee in relation to that of the other employees in the bargaining unit employed at the time the strike or lock-out commenced, except as may be directed by an order of the Board made for the purpose of allowing the employer to resume normal operations.

(14) The requirement to reinstate employees set out in subsection (13) applies notwithstanding that replacement employees may be performing the work of employees in the bargaining unit, but the said subsection does not apply so as to require reinstatement of an employee where, because of the permanent discontinuance of all or part of the business of the employer, the employer no longer has persons engaged in performing work of the same or a similar nature to work which the employee performed before the strike or lock-out. Non-
application

(15) Where a direction has been given under subsection (2), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 14 shall continue in effect. Working
conditions
not
to be altered

or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled.

Non-application

(16) Subsection (15) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union.

Matters to be accepted or considered

(17) In arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment.

Effect of settlement

(18) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of the terms of the agreement, except its term of operation, shall be retroactive to such day as the Board may fix, but not earlier than the day on which notice was given under section 14.

Extension of time

(19) The parties, by agreement in writing, or the Minister may extend any time limit set out in this section, notwithstanding the expiration of such time.

Non-application

(20) This section does not apply to the negotiation of a first collective agreement,

- (a) where one of the parties is an employers' organization accredited under section 127 as a bargaining agent for employers; or
- (b) where the agreement is a provincial agreement within the meaning of section 137.

Application

(21) This section applies to an employer and a trade union where the trade union has acquired or acquires bargaining rights for employees of the employer before or after the coming into force of this section and the bargaining rights have been acquired since the 1st day of January, 1984 and continue to exist at the time of an application under subsection (1).

Application for termination, etc.

(22) Notwithstanding subsection (2), where an application under subsection (1) has been filed with the Board and a final decision on the application has not been issued by it and there has also been filed with the Board, either or both,

- (a) an application for a declaration that the trade union no longer represents the employees in the bargaining unit; and

- (b) an application for certification by another trade union as bargaining agent for employees in the bargaining unit,

the Board shall consider the applications in the order that it considers appropriate and if it grants one of the applications, it shall dismiss any other application described in this section that remains unconsidered.

(23) An application for a declaration that a trade union no longer represents the employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsection 57 (2). Idem

(24) An application for certification by another trade union as bargaining agent for employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsections 5 (4), (5) and (6). Idem

(25) The *Arbitrations Act* does not apply to an arbitration under this section. R.S.O. 1980,
c. 25
does not
apply

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1986*. Short title

Bill 66

An Act to amend the Business Corporations Act, 1982

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The provision is recast to clarify that the Act applies only to "bodies corporate with share capital" and not to corporations incorporated under the *Corporations Act*.

SECTION 2. Subsection 14 (4) of the Act, as recast, is new. Subsection 14 (5) is a restatement of the current subsection 14 (4). Subsection 14 (1) is recast to take into account the new subsection 14 (4).

SECTIONS 3 and 15. Sections 25 and 167 of the Act are amended to provide that where shares are to be issued in one or more series, directors may amend the corporation's articles or the articles themselves may fix the number of shares in and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of a series.

SECTION 4. The provision is recast to clarify that the powers of the directors to declare, and the corporation to pay, a dividend on shares is subject to the articles and to any unanimous shareholder agreement.

SECTIONS 5, 6 and 8. The effect of the changes to sections 42, 45 and 56 of the Act is to permit securities dealers to police the ownership of their publicly traded shares.

SECTIONS 7 and 9. The effect of the changes to the definitions in subsection 53 (1) and the changes to section 85 of the Act is to permit clearing agencies to record transfers and pledges of securities, including securities issued by governments or their agencies as well as partnerships, by means of computer entries as an alternative to the issuance and use of security certificates.

SECTION 10. The amendment corrects an internal section reference.

SECTION 11. Section 125 of the Act deals with changes in the number of directors of a corporation. The proposed subsection (1a) provides that where a corporation has by special by-law increased or decreased the number of its directors as set out in the articles, in compliance with a predecessor of the Act, the special by-law shall be deemed to be effective and constitute an amendment to the articles of the corporation. The proposed subsection (2a) is intended to clarify subsection (2).

SECTION 12. Section 126 of the Act deals with meetings of directors. Subsection 126 (4) is recast to provide that where a corporation has fewer than three directors all must be present to constitute a quorum. Subsection 126 (6) is recast to allow business to be transacted by directors if one of two is Canadian.

SECTION 13. Subsection 138 (2) of the Act is amended in two places by changing "shares" to "voting securities" so that the wording of the subsection is more precise.

SECTION 14. The added section to Part XII of the Act provides for the effective date of an auditor's resignation.

SECTION 16. The subsection being repealed provides that where a matter that constitutes an arrangement could be accomplished by articles of amendment, the latter procedure must be followed.

SECTION 17. Subsections are being added to section 184 of the Act, which deals with the rights of dissenting shareholders, to provide specifically that a negative proxy does not constitute a written objection for purposes of subsection 184 (6) and to require that the notice of the adoption of a resolution under subsection 184 (7) must state the resulting rights and steps to be taken by a dissenting shareholder.

SECTION 18. Subsection 239 (1) of the Act is recast to provide that the Director may, in exercising his discretion, cancel a certificate issued under the Act or a predecessor of the Act.

SECTION 19. The amendment removes the references to dissolution of a corporation under section 238, 239 or 240. A corporation can be dissolved under certain other sections. The substitution reflects this.

SECTION 20. The amendment corrects an internal section reference.

SECTION 21. The provision is recast to clarify that financial statements of corporations filed with the Director for purposes of making application for an exemption from the audit requirements in section 148 of the Act are confidential and not available to the public.

SECTION 22. The power to make regulations is expanded.

SECTION 23. The provision is recast to provide that the Director in endorsing corrected certificates may correct certificates or articles endorsed or issued under a predecessor of the Act and that a corporation may make application for a corrected certificate.

Bill 66

1986

**An Act to amend the
Business Corporations Act, 1982**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Business Corporations Act, 1982*, being chapter 4, is repealed and the following substituted therefor:

2.—(1) This Act, except where it is otherwise expressly provided, applies to every body corporate with share capital, Application

- (a) incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; or
- (c) incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act.

R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a body corporate with share capital that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. Idem

(3) This Act does not apply to a body corporate with share capital that, Idem

R.S.O. 1980,
c. 95

- (a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature;

R.S.O. 1980,
c. 91

- (b) is a corporation to which the *Co-operative Corporations Act* applies;

- (c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*; or

R.S.O. 1980,
c. 102

- (d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies.

2. Subsections 14 (1) and (4) of the said Act are repealed and the following substituted therefor:

Registered
office

- (1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles or in a special resolution made under subsection (4).

Change of
registered
office

- (4) A corporation may by special resolution change the municipality or geographic township in which its registered office is located to another place in Ontario and, if it does so, shall file a certified copy of the resolution with the Director within ten days after passing the resolution.

Validity

- (5) Failure to file as set out in subsection (3) or (4) does not affect the validity of the resolution.

3. Subsections 25 (1), (4) and (5) of the said Act are repealed and the following substituted therefor:

Special
shares
in series

- (1) The articles, subject to the limitations set out in them,
- (a) may authorize the issue of any class of shares in one or more series and may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series; and
- (b) may, where the articles authorize the issue of any class of shares in one or more series, authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restric-

tions and conditions attaching to the shares of each series.

(4) Where, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of such series, the directors shall send to the Director articles of amendment in the prescribed form designating such series.

Articles
designating
special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4), the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of amendment.

Certificate
re special
shares

4. Subsection 38 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to its articles and any unanimous shareholder agreement, the directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property.

Declaration
of dividends

5.—(1) Clause 42 (2) (c) of the said Act is amended by inserting after “any” in the second line “prescribed class of” and by striking out “as a dealer” in the fifth and sixth lines.

(2) Subsection 42 (3) of the said Act is repealed and the following substituted therefor:

(3) Nothing in clause (2) (c) or (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless,

Application
of
subs. (2)
(c. d)

- (a) in the case of restrictions in respect of a class, the shares of the class; or
- (b) in the case of restrictions in respect of a series, the shares of the series,

are already subject to restrictions for the purpose described in clause (2) (c) or (d).

(3) Clause 42 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) prohibit the ownership of its shares,

6. Subsection 45 (1) of the said Act is repealed and the following substituted therefor:

Restricted
shares held
in contraven-
tion—sale by
corporation

(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify,

R.S.O. 1980,
c. 466

- (a) under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration; or
- (b) for membership in a stock exchange in Ontario recognized as such by the Commission,

by reason of limiting to a specified level the ownership of its shares by any prescribed class of person or,

- (c) under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control,

may, for a purpose set out in clause (a), (b) or (c) or, in the case of a corporation under clause (c), for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

7.—(1) Clauses 53 (1) (d), (f), (g), (n) and (u) of the said Act are repealed and the following substituted therefor:

- (d) “*bona fide purchaser*” means a purchaser for value, in good faith and without notice of any adverse claim,
- (i) who takes delivery of a security certificate in bearer form or order form or of a security certificate in registered form issued to him or endorsed to him or endorsed in blank,

- (ii) in whose name an uncertificated security is registered or recorded in records maintained by or on behalf of the issuer as a result of the issue or transfer of the security to him, or
 - (iii) who is a transferee or pledgee as provided in section 85;
-
- (f) "clearing agency" means a person designated as a recognized clearing agency by the Commission;
 - (g) "custodian" means a person acting as a custodian for a clearing agency;
-
- (n) "issuer" means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
 - (iii) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
-
- (u) "security" means a share, participation or other interest in property, rights or an enterprise of an issuer, or an obligation of an issuer, or any right to acquire such a share, participation, interest or obligation, of a type commonly dealt in upon securities exchanges or markets or commonly recognized as a

medium for investment in any area in which it is issued or dealt in;

- (ua) "security certificate" means an instrument in bearer, order or registered form, issued by an issuer evidencing a security.

(2) Subsection 53 (1) of the said Act is amended by adding thereto the following clause:

- (xa) "uncertificated security" means a security, not evidenced by a security certificate, the issue and any transfer of which is registered or recorded in records maintained for that purpose by or on behalf of the issuer.

8. Subsection 56 (8) of the said Act is repealed and the following substituted therefor:

Notice of
restrictions

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for a purpose set out in clause 42 (2) (c) or (d), the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

9.—(1) Subsection 85 (1) of the said Act is repealed and the following substituted therefor:

Transfer
through
clearing
agency

(1) If a security shown in the records of a clearing agency is evidenced by,

- (a) a security certificate in the custody of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency, and is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing agency or a custodian or of a nominee of either; or
- (b) an uncertificated security registered or recorded in records maintained by or on behalf of the issuer in the name of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of an appropriate entry in the records of the clearing agency.

(2) Subsection 85 (5) of the said Act is repealed and the following substituted therefor:

(5) A person depositing a security certificate or an uncertificated security with a clearing agency, or a transferee or pledgee of a security under this section, is a holder of the security and shall be deemed to have possession of the security so deposited, transferred or pledged, as the case may be, for all purposes, including, if a pledge or the creation of a security interest is intended, for the purposes of the *Personal Property Security Act*.

Holder

R.S.O. 1980.
c. 375

(3) Subsection 85 (8) of the said Act is repealed and the following substituted therefor:

(8) In this section,

Definitions

“issuer” includes a person, other than an individual, and a government or agency thereof,

- (a) that is required by this Act to maintain a securities register,
- (b) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
- (c) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
- (d) that becomes responsible for or in place of any other person described as an issuer in this section; and

“security”, “security certificate” and “uncertificated security”, in addition to the meaning each has for the purposes of Part VI, are extended to include a security, security certificate or uncertificated security, as the case may be, of an issuer within the meaning of this section.

10. Subsection 96 (4) of the said Act is amended by striking out “subsection 111 (1)” in the fifth line and inserting in lieu thereof “section 111”.

11. Section 125 of the said Act is amended by adding thereto the following subsections:

Articles
amendment

(1a) Where a corporation has increased or decreased the number of directors by special by-law under a predecessor of this Act, the special by-law shall be deemed to constitute an amendment to its articles.

Idem

(2a) Where no resolution has been filed under subsection (2), the number of directors of the corporation shall be the number of directors named in its articles.

12. Subsections 126 (4) and (6) of the said Act are repealed and the following substituted therefor:

Idem

(4) Where a corporation has fewer than three directors, all directors must be present at any meeting of directors to constitute a quorum.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians or, where a corporation has fewer than three directors, one of the directors present is a resident Canadian.

13. Clauses 138 (2) (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) a person is deemed to own beneficially, voting securities beneficially owned by a body corporate controlled by him directly or indirectly; and

(d) a body corporate is deemed to own beneficially, voting securities beneficially owned by its affiliates.

14. The said Act is amended by adding thereto the following section:

Resignation
of auditor

149a. A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later.

15.—(1) Section 167 of the said Act is amended by adding thereto the following subsection:

(1a) Where the directors are authorized by the articles to divide any class of unissued shares into series and determine the designation, rights, privileges, restrictions and conditions thereof, they may authorize the amendment of the articles to so provide. Idem

(2) Subsection 167 (4) of the said Act is amended by inserting after “subsection” in the second line “(1a) or”.

16. Subsection 181 (7) of the said Act is repealed.

17. Section 184 of the said Act is amended by adding thereto the following subsections:

(6a) The execution or exercise of a proxy does not constitute a written objection for purposes of subsection (6). Idem

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(7a) A notice sent under subsection (7) shall set out the rights of the dissenting shareholder and the procedures to be followed to exercise those rights. Idem

18. Subsection 239 (1) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued or endorsed under this Act or a predecessor of this Act, and, Cancellation
of
certificate,
etc., by
Director

.

19. Subsection 241 (1) of the said Act is amended by striking out “under section 238, 239 or 240” in the second line and inserting in lieu thereof “under this Act”.

20. Clause 257 (1) (c) of the said Act is amended by striking out “subsection 111 (1)” in the fourth line and inserting in lieu thereof “section 111”.

21. Section 269 of the said Act is amended by adding thereto the following subsection:

Privileged
documents

(3) Subsections (1) and (2) do not apply in respect of documents and financial statements required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act.

22. Paragraphs 6 and 25 of section 271 of the said Act are repealed and the following substituted therefor:

6. prescribing the form and content of information circulars and proxies required by Part VIII and the discretionary authority that may be conferred in proxies;

- 17a. prescribing that, for the purposes of Part XII of this Act, the standards, as they exist from time to time, of a prescribed accounting body shall be followed;

25. prescribing, with respect to a corporation that has imposed restrictions on the issue, transfer or ownership of its shares for a purpose under subsection 42 (2),

- i. the disclosure required of the restrictions in documents issued or published by the corporation,
- ii. the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation,
- iii. the limitations on voting rights of any shares held contrary to the articles of the corporation, and
- iv. the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;

- 25a. prescribing persons or classes of persons for the purpose of clause 42 (2) (c) and prescribing the

manner of computing the ownership of shares of a corporation by persons for such purpose;

27. prescribing classes of persons for the purposes of subparagraph ii of paragraph 37 of subsection 1 (1);
28. prescribing any matter referred to in this Act as prescribed by the regulations.

23. Subsection 273 (1) of the said Act is repealed and the following substituted therefor:

(1) Where a certificate endorsed or issued under this Act or a predecessor of this Act contains an error or where a certificate has been endorsed or issued on articles or any other documents that contain an error,

Where error
in respect of
certificate

- (a) the corporation, its directors or shareholders may apply to the Director for a corrected certificate and shall surrender the certificate and related articles or documents; or
- (b) the corporation shall upon the request of the Director surrender the certificate and related articles or documents,

and, after giving the corporation an opportunity to be heard, where the Director is of the opinion that it is appropriate to so do and is satisfied that such steps have been taken by the corporation as the Director required, the Director shall endorse a corrected certificate.

24.—(1) This Act, except sections 18 and 23, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Sections 18 and 23 shall be deemed to have come into force on the 29th day of July, 1983.

Idem

25. The short title of this Act is the *Business Corporations Amendment Act, 1986*.

Short title

Bill 66

An Act to amend the Business Corporations Act, 1982

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	November 18th, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The provision is recast to clarify that the Act applies only to "bodies corporate with share capital" and not to corporations incorporated under the *Corporations Act*.

SECTION 2. Subsection 14 (4) of the Act, as recast, is new. Subsection 14 (5) is a restatement of the current subsection 14 (4). Subsection 14 (1) is recast to take into account the new subsection 14 (4).

SECTIONS 3 and 15. Sections 25 and 167 of the Act are amended to provide that where shares are to be issued in one or more series, directors may amend the corporation's articles or the articles themselves may fix the number of shares in and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of a series.

SECTION 4. The provision is recast to clarify that the powers of the directors to declare, and the corporation to pay, a dividend on shares is subject to the articles and to any unanimous shareholder agreement.

SECTIONS 5, 6 and 8. The effect of the changes to sections 42, 45 and 56 of the Act is to permit securities dealers to police the ownership of their publicly traded shares.

SECTIONS 7 and 9. The effect of the changes to the definitions in subsection 53 (1) and the changes to section 85 of the Act is to permit clearing agencies to record transfers and pledges of securities, including securities issued by governments or their agencies as well as partnerships, by means of computer entries as an alternative to the issuance and use of security certificates.

SECTION 10. The amendment corrects an internal section reference.

SECTION 11. Section 125 of the Act deals with changes in the number of directors of a corporation. The proposed subsection (1a) provides that where a corporation has by special by-law increased or decreased the number of its directors as set out in the articles, in compliance with a predecessor of the Act, the special by-law shall be deemed to be effective and constitute an amendment to the articles of the corporation. The proposed subsection (2a) is intended to clarify subsection (2).

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SECTION 16. The subsection being repealed provides that where a matter that constitutes an arrangement could be accomplished by articles of amendment, the latter procedure must be followed.

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- (b) incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; or
- (c) incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act.

R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a body corporate with share capital that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. Idem

(3) This Act does not apply to a body corporate with share capital that, Idem

R.S.O. 1980,
c. 95

- (a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature;

R.S.O. 1980,
c. 91

- (b) is a corporation to which the *Co-operative Corporations Act* applies;

- (c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*; or

R.S.O. 1980,
c. 102

- (d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies.

2. Subsections 14 (1) and (4) of the said Act are repealed and the following substituted therefor:

Registered
office

- (1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles or in a special resolution made under subsection (4).

Change of
registered
office

- (4) A corporation may by special resolution change the municipality or geographic township in which its registered office is located to another place in Ontario and, if it does so, shall file a certified copy of the resolution with the Director within ten days after passing the resolution.

Validity

- (5) Failure to file as set out in subsection (3) or (4) does not affect the validity of the resolution.

3. Subsections 25 (1), (4) and (5) of the said Act are repealed and the following substituted therefor:

Special
shares
in series

- (1) The articles, subject to the limitations set out in them,
- (a) may authorize the issue of any class of shares in one or more series and may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series; and
- (b) may, where the articles authorize the issue of any class of shares in one or more series, authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restric-

tions and conditions attaching to the shares of each series.

(4) Where, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of such series, the directors shall send to the Director articles of amendment in the prescribed form designating such series.

Articles
designating
special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4), the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of amendment.

Certificate
re special
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4. Subsection 38 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to its articles and any unanimous shareholder agreement, the directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property.

Declaration
of dividends

5.—(1) Clause 42 (2) (c) of the said Act is amended by inserting after “any” in the second line “prescribed class of” and by striking out “as a dealer” in the fifth and sixth lines.

(2) Subsection 42 (3) of the said Act is repealed and the following substituted therefor:

(3) Nothing in clause (2) (c) or (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless,

Application
of
subs. (2)
(c, d)

- (a) in the case of restrictions in respect of a class, the shares of the class; or
- (b) in the case of restrictions in respect of a series, the shares of the series,

are already subject to restrictions for the purpose described in clause (2) (c) or (d).

(3) Clause 42 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) prohibit the ownership of its shares,

6. Subsection 45 (1) of the said Act is repealed and the following substituted therefor:

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(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify,

R.S.O. 1980,
c. 466

- (a) under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration; or
- (b) for membership in a stock exchange in Ontario recognized as such by the Commission,

by reason of limiting to a specified level the ownership of its shares by any prescribed class of person or,

- (c) under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control,

may, for a purpose set out in clause (a), (b) or (c) or, in the case of a corporation under clause (c), for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

7.—(1) Clauses 53 (1) (d), (f), (g), (n) and (u) of the said Act are repealed and the following substituted therefor:

- (d) “*bona fide purchaser*” means a purchaser for value, in good faith and without notice of any adverse claim,
- (i) who takes delivery of a security certificate in bearer form or order form or of a security certificate in registered form issued to him or endorsed to him or endorsed in blank,

- (ii) in whose name an uncertificated security is registered or recorded in records maintained by or on behalf of the issuer as a result of the issue or transfer of the security to him, or
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-
- (f) "clearing agency" means a person designated as a recognized clearing agency by the Commission;
 - (g) "custodian" means a person acting as a custodian for a clearing agency;
-
- (n) "issuer" means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
 - (iii) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
-
- (u) "security" means a share, participation or other interest in property, rights or an enterprise of an issuer, or an obligation of an issuer, or any right to acquire such a share, participation, interest or obligation, of a type commonly dealt in upon securities exchanges or markets or commonly recognized as a

medium for investment in any area in which it is issued or dealt in;

- (ua) “security certificate” means an instrument in bearer, order or registered form, issued by an issuer evidencing a security.

(2) Subsection 53 (1) of the said Act is amended by adding thereto the following clause:

- (xa) “uncertificated security” means a security, not evidenced by a security certificate, the issue and any transfer of which is registered or recorded in records maintained for that purpose by or on behalf of the issuer.

8. Subsection 56 (8) of the said Act is repealed and the following substituted therefor:

Notice of
restrictions

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for a purpose set out in clause 42 (2) (c) or (d), the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

9.—(1) Subsection 85 (1) of the said Act is repealed and the following substituted therefor:

Transfer
through
clearing
agency

(1) If a security shown in the records of a clearing agency is evidenced by,

- (a) a security certificate in the custody of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency, and is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing agency or a custodian or of a nominee of either; or
- (b) an uncertificated security registered or recorded in records maintained by or on behalf of the issuer in the name of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of an appropriate entry in the records of the clearing agency.

(2) Subsection 85 (5) of the said Act is repealed and the following substituted therefor:

(5) A person depositing a security certificate or an uncertificated security with a clearing agency, or a transferee or pledgee of a security under this section, is a holder of the security and shall be deemed to have possession of the security so deposited, transferred or pledged, as the case may be, for all purposes, including, if a pledge or the creation of a security interest is intended, for the purposes of the *Personal Property Security Act*.

Holder

R.S.O. 1980,
c. 375

(3) Subsection 85 (8) of the said Act is repealed and the following substituted therefor:

(8) In this section,

Definitions

“issuer” includes a person, other than an individual, and a government or agency thereof,

- (a) that is required by this Act to maintain a securities register,
- (b) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
- (c) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
- (d) that becomes responsible for or in place of any other person described as an issuer in this section; and

“security”, “security certificate” and “uncertificated security”, in addition to the meaning each has for the purposes of Part VI, are extended to include a security, security certificate or uncertificated security, as the case may be, of an issuer within the meaning of this section.

10. Subsection 96 (4) of the said Act is amended by striking out “subsection 111 (1)” in the fifth line and inserting in lieu thereof “section 111”.

11. Section 125 of the said Act is amended by adding thereto the following subsections:

Articles
amendment

(1a) Where a corporation has increased or decreased the number of directors by special by-law under a predecessor of this Act, the special by-law shall be deemed to constitute an amendment to its articles.

Idem

(2a) Where no resolution has been passed under subsection (2), the number of directors of the corporation shall be the number of directors named in its articles.

12. Subsections 126 (4) and (6) of the said Act are repealed and the following substituted therefor:

Idem

(4) Where a corporation has fewer than three directors, all directors must be present at any meeting of directors to constitute a quorum.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians or, where a corporation has fewer than three directors, one of the directors present is a resident Canadian.

13. Clauses 138 (2) (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) a person is deemed to own beneficially, voting securities beneficially owned by a body corporate controlled by him directly or indirectly; and

(d) a body corporate is deemed to own beneficially, voting securities beneficially owned by its affiliates.

14. The said Act is amended by adding thereto the following section:

Resignation
of auditor

149a. A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later.

15.—(1) Section 167 of the said Act is amended by adding thereto the following subsection:

(1a) Where the directors are authorized by the articles to divide any class of unissued shares into series and determine the designation, rights, privileges, restrictions and conditions thereof, they may authorize the amendment of the articles to so provide. Idem

(2) Subsection 167 (4) of the said Act is amended by inserting after “subsection” in the second line “(1a) or”.

16. Subsection 181 (7) of the said Act is repealed.

17. Section 184 of the said Act is amended by adding thereto the following subsections:

(6a) The execution or exercise of a proxy does not constitute a written objection for purposes of subsection (6). Idem

(7a) A notice sent under subsection (7) shall set out the rights of the dissenting shareholder and the procedures to be followed to exercise those rights. Idem

18. Subsection 239 (1) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued or endorsed under this Act or a predecessor of this Act, and, Cancellation of certificate, etc., by Director

19. Subsection 241 (1) of the said Act is amended by striking out “under section 238, 239 or 240” in the second line and inserting in lieu thereof “under this Act”.

20. Clause 257 (1) (c) of the said Act is amended by striking out “subsection 111 (1)” in the fourth line and inserting in lieu thereof “section 111”.

21. Section 269 of the said Act is amended by adding thereto the following subsection:

Privileged
documents

(3) Subsections (1) and (2) do not apply in respect of documents and financial statements required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act.

22. Paragraphs 6 and 25 of section 271 of the said Act are repealed and the following substituted therefor:

6. prescribing the form and content of information circulars and proxies required by Part VIII and the discretionary authority that may be conferred in proxies;

.

- 17a. prescribing that, for the purposes of Part XII of this Act, the standards, as they exist from time to time, of a prescribed accounting body shall be followed;

.

25. prescribing, with respect to a corporation that has imposed restrictions on the issue, transfer or ownership of its shares for a purpose under subsection 42 (2),

- i. the disclosure required of the restrictions in documents issued or published by the corporation,
- ii. the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation,
- iii. the limitations on voting rights of any shares held contrary to the articles of the corporation, and
- iv. the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;

- 25a. prescribing persons or classes of persons for the purpose of clause 42 (2) (c) and prescribing the

manner of computing the ownership of shares of a corporation by persons for such purpose;

27. prescribing classes of persons for the purposes of subparagraph ii of paragraph 37 of subsection 1 (1);
28. prescribing any matter referred to in this Act as prescribed by the regulations.

23. Subsection 273 (1) of the said Act is repealed and the following substituted therefor:

(1) Where a certificate endorsed or issued under this Act or a predecessor of this Act contains an error or where a certificate has been endorsed or issued on articles or any other documents that contain an error,

Where error
in respect of
certificate

- (a) the corporation, its directors or shareholders may apply to the Director for a corrected certificate and shall surrender the certificate and related articles or documents; or
- (b) the corporation shall upon the request of the Director surrender the certificate and related articles or documents,

and, after giving the corporation an opportunity to be heard, where the Director is of the opinion that it is appropriate to so do and is satisfied that such steps have been taken by the corporation as the Director required, the Director shall endorse a corrected certificate.

24.—(1) This Act, except sections 18 and 23, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Sections 18 and 23 shall be deemed to have come into force on the 29th day of July, 1983.

Idem

25. The short title of this Act is the *Business Corporations Amendment Act, 1986*.

Short title

Bill 66

*(Chapter 57
Statutes of Ontario, 1986)*

An Act to amend the Business Corporations Act, 1982

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	November 18th, 1986
<i>3rd Reading</i>	November 27th, 1986
<i>Royal Assent</i>	November 27th, 1986

Bill 66

1986

**An Act to amend the
Business Corporations Act, 1982**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Business Corporations Act, 1982*, being chapter 4, is repealed and the following substituted therefor:

2.—(1) This Act, except where it is otherwise expressly provided, applies to every body corporate with share capital, Application

- (a) incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; or
- (c) incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act.

R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a body corporate with share capital that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. Idem

(3) This Act does not apply to a body corporate with share capital that, Idem

R.S.O. 1980,
c. 95

- (a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature;

R.S.O. 1980,
c. 91

- (b) is a corporation to which the *Co-operative Corporations Act* applies;

- (c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*; or

R.S.O. 1980,
c. 102

- (d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies.

2. Subsections 14 (1) and (4) of the said Act are repealed and the following substituted therefor:

Registered
office

- (1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles or in a special resolution made under subsection (4).

.

Change of
registered
office

- (4) A corporation may by special resolution change the municipality or geographic township in which its registered office is located to another place in Ontario and, if it does so, shall file a certified copy of the resolution with the Director within ten days after passing the resolution.

Validity

- (5) Failure to file as set out in subsection (3) or (4) does not affect the validity of the resolution.

3. Subsections 25 (1), (4) and (5) of the said Act are repealed and the following substituted therefor:

Special
shares
in series

- (1) The articles, subject to the limitations set out in them,
- (a) may authorize the issue of any class of shares in one or more series and may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series; and
- (b) may, where the articles authorize the issue of any class of shares in one or more series, authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restric-

tions and conditions attaching to the shares of each series.

(4) Where, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of such series, the directors shall send to the Director articles of amendment in the prescribed form designating such series.

Articles
designating
special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4), the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of amendment.

Certificate
re special
shares

4. Subsection 38 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to its articles and any unanimous shareholder agreement, the directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property.

Declaration
of dividends

5.—(1) Clause 42 (2) (c) of the said Act is amended by inserting after “any” in the second line “prescribed class of” and by striking out “as a dealer” in the fifth and sixth lines.

(2) Subsection 42 (3) of the said Act is repealed and the following substituted therefor:

(3) Nothing in clause (2) (c) or (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless,

Application
of
subs. (2)
(c, d)

- (a) in the case of restrictions in respect of a class, the shares of the class; or
- (b) in the case of restrictions in respect of a series, the shares of the series,

are already subject to restrictions for the purpose described in clause (2) (c) or (d).

(3) Clause 42 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) prohibit the ownership of its shares,

6. Subsection 45 (1) of the said Act is repealed and the following substituted therefor:

Restricted
shares held
in contraven-
tion—sale by
corporation

(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify,

R.S.O. 1980,
c. 466

- (a) under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration; or
- (b) for membership in a stock exchange in Ontario recognized as such by the Commission,

by reason of limiting to a specified level the ownership of its shares by any prescribed class of person or,

- (c) under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control,

may, for a purpose set out in clause (a), (b) or (c) or, in the case of a corporation under clause (c), for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

7.—(1) Clauses 53 (1) (d), (f), (g), (n) and (u) of the said Act are repealed and the following substituted therefor:

- (d) “*bona fide purchaser*” means a purchaser for value, in good faith and without notice of any adverse claim,
- (i) who takes delivery of a security certificate in bearer form or order form or of a security certificate in registered form issued to him or endorsed to him or endorsed in blank,

- (ii) in whose name an uncertificated security is registered or recorded in records maintained by or on behalf of the issuer as a result of the issue or transfer of the security to him, or
 - (iii) who is a transferee or pledgee as provided in section 85;
-
- (f) "clearing agency" means a person designated as a recognized clearing agency by the Commission;
 - (g) "custodian" means a person acting as a custodian for a clearing agency;
-
- (n) "issuer" means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
 - (iii) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
-
- (u) "security" means a share, participation or other interest in property, rights or an enterprise of an issuer, or an obligation of an issuer, or any right to acquire such a share, participation, interest or obligation, of a type commonly dealt in upon securities exchanges or markets or commonly recognized as a

medium for investment in any area in which it is issued or dealt in;

- (ua) “security certificate” means an instrument in bearer, order or registered form, issued by an issuer evidencing a security.

(2) Subsection 53 (1) of the said Act is amended by adding thereto the following clause:

- (xa) “uncertificated security” means a security, not evidenced by a security certificate, the issue and any transfer of which is registered or recorded in records maintained for that purpose by or on behalf of the issuer.

8. Subsection 56 (8) of the said Act is repealed and the following substituted therefor:

Notice of
restrictions

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for a purpose set out in clause 42 (2) (c) or (d), the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

9.—(1) Subsection 85 (1) of the said Act is repealed and the following substituted therefor:

Transfer
through
clearing
agency

(1) If a security shown in the records of a clearing agency is evidenced by,

- (a) a security certificate in the custody of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency, and is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing agency or a custodian or of a nominee of either; or
- (b) an uncertificated security registered or recorded in records maintained by or on behalf of the issuer in the name of the clearing agency or a custodian or of a nominee of either, subject to the instructions of the clearing agency,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of an appropriate entry in the records of the clearing agency.

(2) Subsection 85 (5) of the said Act is repealed and the following substituted therefor:

(5) A person depositing a security certificate or an uncertificated security with a clearing agency, or a transferee or pledgee of a security under this section, is a holder of the security and shall be deemed to have possession of the security so deposited, transferred or pledged, as the case may be, for all purposes, including, if a pledge or the creation of a security interest is intended, for the purposes of the *Personal Property Security Act*.

Holder

R.S.O. 1980,
c. 375

(3) Subsection 85 (8) of the said Act is repealed and the following substituted therefor:

(8) In this section,

Definitions

“issuer” includes a person, other than an individual, and a government or agency thereof,

- (a) that is required by this Act to maintain a securities register,
- (b) that directly or indirectly creates fractional interests in its rights or property and issues security certificates or uncertificated securities as evidence of the fractional interests,
- (c) that places or authorizes the placing of its name on a security certificate, otherwise than as an authenticating trustee, registrar or transfer agent, or that otherwise authorizes the issue of a security certificate or an uncertificated security evidencing a share, participation or other interest in its property or in an enterprise or evidencing its duty to perform an obligation, or
- (d) that becomes responsible for or in place of any other person described as an issuer in this section; and

“security”, “security certificate” and “uncertificated security”, in addition to the meaning each has for the purposes of Part VI, are extended to include a security, security certificate or uncertificated security, as the case may be, of an issuer within the meaning of this section.

10. Subsection 96 (4) of the said Act is amended by striking out "subsection 111 (1)" in the fifth line and inserting in lieu thereof "section 111".

11. Section 125 of the said Act is amended by adding thereto the following subsections:

Articles
amendment

(1a) Where a corporation has increased or decreased the number of directors by special by-law under a predecessor of this Act, the special by-law shall be deemed to constitute an amendment to its articles.

Idem

(2a) Where no resolution has been passed under subsection (2), the number of directors of the corporation shall be the number of directors named in its articles.

12. Subsections 126 (4) and (6) of the said Act are repealed and the following substituted therefor:

Idem

(4) Where a corporation has fewer than three directors, all directors must be present at any meeting of directors to constitute a quorum.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians or, where a corporation has fewer than three directors, one of the directors present is a resident Canadian.

13. Clauses 138 (2) (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) a person is deemed to own beneficially, voting securities beneficially owned by a body corporate controlled by him directly or indirectly; and

(d) a body corporate is deemed to own beneficially, voting securities beneficially owned by its affiliates.

14. The said Act is amended by adding thereto the following section:

Resignation
of auditor

149a. A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later.

15.—(1) Section 167 of the said Act is amended by adding thereto the following subsection:

(1a) Where the directors are authorized by the articles to divide any class of unissued shares into series and determine the designation, rights, privileges, restrictions and conditions thereof, they may authorize the amendment of the articles to so provide. Idem

(2) Subsection 167 (4) of the said Act is amended by inserting after “subsection” in the second line “(1a) or”.

16. Subsection 181 (7) of the said Act is repealed.

17. Section 184 of the said Act is amended by adding thereto the following subsections:

(6a) The execution or exercise of a proxy does not constitute a written objection for purposes of subsection (6). Idem

(7a) A notice sent under subsection (7) shall set out the rights of the dissenting shareholder and the procedures to be followed to exercise those rights. Idem

18. Subsection 239 (1) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued or endorsed under this Act or a predecessor of this Act, and, Cancellation of certificate, etc., by Director

19. Subsection 241 (1) of the said Act is amended by striking out “under section 238, 239 or 240” in the second line and inserting in lieu thereof “under this Act”.

20. Clause 257 (1) (c) of the said Act is amended by striking out “subsection 111 (1)” in the fourth line and inserting in lieu thereof “section 111”.

21. Section 269 of the said Act is amended by adding thereto the following subsection:

Privileged
documents

(3) Subsections (1) and (2) do not apply in respect of documents and financial statements required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act.

22. Paragraphs 6 and 25 of section 271 of the said Act are repealed and the following substituted therefor:

6. prescribing the form and content of information circulars and proxies required by Part VIII and the discretionary authority that may be conferred in proxies;

.

- 17a. prescribing that, for the purposes of Part XII of this Act, the standards, as they exist from time to time, of a prescribed accounting body shall be followed;

.

25. prescribing, with respect to a corporation that has imposed restrictions on the issue, transfer or ownership of its shares for a purpose under subsection 42 (2),

- i. the disclosure required of the restrictions in documents issued or published by the corporation,
- ii. the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation,
- iii. the limitations on voting rights of any shares held contrary to the articles of the corporation, and
- iv. the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;

- 25a. prescribing persons or classes of persons for the purpose of clause 42 (2) (c) and prescribing the

manner of computing the ownership of shares of a corporation by persons for such purpose;

27. prescribing classes of persons for the purposes of subparagraph ii of paragraph 37 of subsection 1 (1);
28. prescribing any matter referred to in this Act as prescribed by the regulations.

23. Subsection 273 (1) of the said Act is repealed and the following substituted therefor:

(1) Where a certificate endorsed or issued under this Act or a predecessor of this Act contains an error or where a certificate has been endorsed or issued on articles or any other documents that contain an error,

Where error
in respect of
certificate

- (a) the corporation, its directors or shareholders may apply to the Director for a corrected certificate and shall surrender the certificate and related articles or documents; or
- (b) the corporation shall upon the request of the Director surrender the certificate and related articles or documents,

and, after giving the corporation an opportunity to be heard, where the Director is of the opinion that it is appropriate to so do and is satisfied that such steps have been taken by the corporation as the Director required, the Director shall endorse a corrected certificate.

24.—(1) This Act, except sections 18 and 23, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Sections 18 and 23 shall be deemed to have come into force on the 29th day of July, 1983.

Idem

25. The short title of this Act is the *Business Corporations Amendment Act, 1986*.

Short title



Bill 67

An Act to establish Midwifery as a Self-governing Health Profession

Mr. Cooke
(Windsor-Riverside)

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to establish midwifery as an independent, self-governing health profession along the lines of medicine and nursing.

Bill 67

1986

**An Act to establish
Midwifery as a Self-governing Health Profession**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MIDWIFERY

67a.—(1) In this Part,

Interpretation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Midwives of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of midwifery issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of midwifery” means the supervision, care and counselling of women before, during and after pregnancy and labour, and includes,
 - (i) conducting normal deliveries independently,
 - (ii) caring for the newborn,
 - (iii) taking preventive measures,

- (iv) detecting abnormal conditions in mothers and the newborn,
 - (v) obtaining medical assistance,
 - (vi) taking emergency measures in the absence of medical assistance, and
 - (vii) providing counselling and education to the community concerning health, preparation for birth and parenthood, family planning and child care;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
- (h) "Registrar" means the Registrar of the College;
- (i) "regulations" means the regulations made under this Part.

Health
discipline

(2) The practice of midwifery is a health discipline to which this Part applies.

College of
Midwives
established

67b.—(1) The College of Midwives of Ontario is established as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

- (2) The objects of the College are,
- (a) to regulate the practice of midwifery and to govern its members in accordance with this Act, the regulations and the by-laws;
 - (b) to establish, maintain and develop standards of knowledge and skill among its members;
 - (c) to establish, maintain and develop standards of qualification and practice for the practice of midwifery;
 - (d) to establish, maintain and develop standards of professional ethics among its members;
 - (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

67c.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Membership
in the
College

(2) A member may resign his or her membership by filing a written resignation with the Registrar and the member's licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct while a member.

Resignation
of
membership

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct as a member.

Cancellation
for default
of fees

67d.—(1) The Council of the College is established and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Council of
the College

(2) The Council shall be composed of,

Composition
of Council

(a) not fewer than eighteen and not more than twenty-five persons who are members and are elected by the members in the manner provided by the regulations; and

(b) not fewer than six and not more than ten persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

(3) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of the person's appointment, and a person whose appointment expires is eligible for reappointment.

Expiration
of
appointment

(4) Every member who is,

Qualifica-
tions to
vote:
members

(a) resident in Ontario;

(b) licensed to practise midwifery; and

(c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

President
and Vice-
President

(5) The Council shall elect annually a President and Vice-President from among its members.

Registrar
and
officers

(6) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Quorum

(7) A majority of the members of the Council constitutes a quorum.

Powers of
Minister

67e. In addition to the powers and duties conferred under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

67f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;

(b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

(c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) requiring every member to file with the Registrar annually a plan for consultation with physicians licensed under Part III and for emergency care of the member's patients by a physician or physicians, and providing that a member's licence may be suspended for failure to file such a plan annually;
- (i) governing the designation of life members of the College and prescribing their rights and privileges;
- (j) prohibiting the practice of midwifery where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters;
- (o) requiring and providing for the inspection and examination of books, accounts, reports and records of members in connection with their practice;

- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (s) prescribing forms and providing for their use;
- (t) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

By-laws

67g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;

- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Signing
by-law and
resolutions

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Licence to
practise

67h.—(1) No person shall engage in the practice of midwifery, except in the provision of counselling and education referred to in subclause 67a (1) (f) (vii), or hold himself or herself out as engaging in the practice of midwifery, unless the person is licensed under this Part or under Part III.

Proof of
practice

(2) For the purposes of this section, proof of the performance of one act in the practice of midwifery on one occasion is sufficient to establish engaging in the practice of midwifery.

Conflict
with other
health
discipline

(3) A member or person authorized by the regulations may engage in the practice of midwifery notwithstanding that any part of that practice is included in the practice of another health discipline.

Establish-
ment of
committees

67i.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee; and
- (c) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

67j.—(1) The Executive Committee shall be composed of, Executive Committee

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

67k.—(1) The Registration Committee shall be composed of, Registration Committee

- (a) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council; and
- (b) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

67l.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he or she proposes to refuse or to which he or she considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee.

- (a) shall determine the eligibility of applicants for licences and may require an applicant to take and Powers and duties of Registration Committee

pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

- (b) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of
qualifica-
tions

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on the member's licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers
of
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise midwifery, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Discipline
Committee

67m.—(1) The Discipline Committee shall be composed of ten members of the Council, four of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition
of panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum
and votes

(4) Three members of a panel assigned under subsection (3), one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Where a panel of the Discipline Committee commences a hearing and the member of the panel who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Disability
of lay
member

67n.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, and take such action as it considers appropriate, including proceeding under clause (b) as if the complaint were an allegation of professional misconduct or incompetence;
- (b) hear and determine allegations of professional misconduct or incompetence against members,
 - (i) when so directed by the Council or Executive Committee, and
 - (ii) when the Discipline Committee considers it appropriate to deal with a complaint under this clause as if the complaint were an allegation of professional misconduct or incompetence;
- (c) hear and determine matters referred to it under section 67p;
- (d) hold hearings under section 67o; and
- (e) perform such other duties as are assigned to it by the Council.

(2) No action shall be taken by the Committee under clause (1) (a) unless, Idem

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he or she may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(3) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(4) A member may be found guilty of professional misconduct by the Committee if,

- (a) he or she has been found guilty of an offence relevant to suitability to practise, upon proof of the conviction; or
- (b) he or she has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(5) The Discipline Committee may find a member to be incompetent if in its opinion the member has displayed in the professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates the member is unfit to continue in practice.

Powers of Discipline Committee

(6) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion thereof as the Discipline Committee fixes. Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on
appeal for
incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on
appeal for
professional
misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of
decision of
Discipline
Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office had not expired or been terminated. Continuation
on expiry of
Committee
membership

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection (2);
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he or she no longer be permitted to practise or that the member's practice be restricted.

Reference
to board of
inquiry

(2) Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination, the board may order that the member's licence be suspended until the member complies.

Hearing by
Discipline
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Discipline Committee to hold a hearing and may suspend the member's licence until the determination of the question of the member's capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Discipline Committee are parties to a proceeding under this section.

Medical
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his or her case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment, to be signed by the practitioner and served upon the other parties to the proceeding,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Discipline Committee shall, after the hearing,

Powers of
Discipline
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
 - (i) revoke the member's licence,
 - (ii) suspend the member's licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply with necessary modifications to proceedings of the Discipline Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

67p.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension.

Restoration
of licence

(2) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting, and decide upon, the application and the Discipline Committee

Reference to
Discipline
Committee

shall report its decision and reasons to the Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation
of members

67q.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents

or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility
of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he or she considers appropriate.

Report of
Registrar

67r.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 67q, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 67q and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or
- (b) to his or her counsel; or

- (c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining
orders

67s.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Penalties

67t.—(1) Every person who contravenes section 67h is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
use of
titles

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part or Part III who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he or she is licensed or registered under this Part or is recognized by law or otherwise as a midwife, or who assumes, uses or employs the description or title “midwife” or advertises or holds himself or herself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 67t in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Health Disciplines Amendment Act, 1986*.

Bill 68

An Act to amend the Securities Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The principal purposes of the Bill are as follows:

1. Under section 2, the Lieutenant Governor in Council will be authorized to appoint up to two additional persons as members of the Commission and to designate an additional Vice-Chairman.
2. Under the *Business Corporations Act, 1982*, provision is made for the clearing of securities through the facilities of a clearing agency recognized by the Commission. The proposed clause 18 (1) (a), section 21a and paragraph 18a of section 139 of the Act, as set out in sections 3, 4 and 12 of the Bill, provide for a regulatory framework with respect to the recognition of such clearing agencies. The new definitions set out in section 1 of the Bill are complementary to the provisions related to clearing agencies.
3. Under section 7, Part XIX of the Act is re-enacted. Part XIX relates to take-over bids and issuer bids. Among the significant changes are the following:
 1. The requirement for follow-up offers as set out in the present subsection 91 (1) of the Act is replaced by new restrictions on the availability of the private agreement exemption. (Proposed clause 92 (1) (c))
 2. An early warning system is established whereby, when an offeror's holdings in any class of voting or non-voting participating securities of an issuer reaches 10 per cent, the offeror will be required to make public disclosure of the fact. (Proposed section 100)
 3. Provision is made for the integration with the bid of acquisitions made through private transactions during the ninety day period preceding a take-over bid so that offerees under the bid will receive consideration equal to the consideration paid in the private transactions. (Proposed subsection 93 (4))
 4. An offeror and those acting jointly or in concert with an offeror will be treated as one offeror.
 5. Restrictions on conditions in take-over bids are removed.
 6. The take-over bid and issuer bid requirements in the proposed sections 94 to 99 will be made applicable to voluntary acquisitions of non-voting participating securities.
 7. Take-over bids and issuer bids that are made in jurisdictions with acceptable rules related to bids and that have slight connection with Ontario will be exempted from the take-over bid and issuer bid requirements of the Act. (Proposed clauses 92 (1) (e) and 92 (3) (h))
 8. Restrictions will apply to acquisitions of securities that were subject to a take-over bid or an issuer bid for a period of twenty days following the expiry of the bid. (Proposed subsection 93 (6))
 9. Amendments are made to the rules governing take-over bids and issuer bids.
 10. Under the proposed section 100e, the existing Part XIX will continue to apply in respect of take-over bids and issuer bids commenced before the new Part XIX comes into force.
 11. New remedial powers are conferred on the Commission and on the High Court. (Proposed sections 100c and 100d)

The amendments to the Act set out in sections 5, 6, 8, 9, 10 and 11 of the Bill are complementary to the enactment of the new Part XIX of the Act.

Bill 68

1986

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

2a. "clearing agency" means a person or company that acts as an intermediary in paying funds or delivering securities, or both, in connection with trades in securities and that provides centralized facilities for the clearing of trades in securities;

34a. "recognized clearing agency" means a person or company that is designated as a recognized clearing agency by the Commission.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

(2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, two of whom may be designated as Vice-Chairmen. Appointments

3. Clause 18 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) the financial affairs of a recognized clearing agency, registrant or reporting issuer; and

4. The said Act is amended by adding thereto the following Part:

PART VIII-A

CLEARING AGENCIES

Recognition
of clearing
agencies

21a.—(1) Upon the application of a person or company carrying on or proposing to carry on the business of a clearing agency, the Commission may designate the person or company as a recognized clearing agency where the Commission is satisfied that to do so would be in the public interest and that the person or company can comply with the regulations and all terms and conditions imposed by the Commission with respect to the designation.

Commission's
powers

(2) The Commission, in designating a person or company as a recognized clearing agency, shall make the designation in writing and the designation may be made subject to such terms and conditions as the Commission may impose.

Idem

(3) The Commission, after giving a recognized clearing agency an opportunity to be heard, may suspend or cancel its designation as a recognized clearing agency or may impose terms and conditions upon the designation where in its opinion such action is in the public interest.

Idem

(4) The Commission, where it appears to it to be in the public interest, may make any decision with respect to any constating document, general agreement with its participants or members, by-law, rule, regulation, procedure or practice of a recognized clearing agency, including, without limiting the generality of the foregoing, suspending the operation of or requiring an amendment to any such constating document, general agreement, by-law, rule, regulation, procedure or practice.

Review of
decisions of
recognized
clearing
agency

(5) Any person or company directly affected by any direction, order or decision made under any by-law, rule, regulation, procedure or practice of a recognized clearing agency may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

5. Paragraph 17 of subsection 34 (1) of the said Act is repealed and the following substituted therefor:

17. A trade in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

6. Clause 71 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) the trade is made in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

7. Part XIX of the said Act is repealed and the following substituted therefor:

PART XIX

TAKE-OVER BIDS AND ISSUER BIDS

88.—(1) In this Part,

Definitions

“business day” means a day other than a Saturday or a holiday;

“class of securities” includes a series of a class of securities;

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

“formal bid” means,

- (a) a take-over bid or an issuer bid to which section 94 applies,
- (b) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99,
 - (i) by reason of an exemption under clause 92 (1) (a) or 92 (3) (e), if the offeror is required to deliver to every security holder whose last address as shown on the books of the offeree issuer is in Ontario a disclosure document of the type contemplated by subsection 127 (10), or
 - (ii) by reason of an exemption under clause 92 (1) (e) or 92 (3) (h), if the offeror is required to deliver disclosure material relating to the bid to holders of the class of securities subject to the bid;

“interested person” means, for the purposes of sections 100c and 100d,

- (a) an offeree issuer,
- (b) a security holder, director or officer of an offeree issuer,
- (c) an offeror,
- (d) the Director, and
- (e) any person or company not referred to in clauses (a) to (d) who in the opinion of the Commission or the Court, as the case may be, is a proper person to make an application under section 100c or 100d, as the case may be;

“issuer bid” means an offer to acquire or redeem securities of an issuer made by the issuer to any person or company who is in Ontario or to any security holder of the issuer whose last address as shown on the books of the issuer is in Ontario and includes a purchase, redemption or other acquisition of securities of the issuer by the issuer from any such person or company, but does not include an offer to acquire or redeem debt securities that are not convertible into securities other than debt securities;

“offer to acquire” includes,

- (a) an offer to purchase, or a solicitation of an offer to sell, securities,
- (b) an acceptance of an offer to sell securities, whether or not such offer to sell has been solicited,

or any combination thereof, and the person or company accepting an offer to sell shall be deemed to be making an offer to acquire to the person or company that made the offer to sell;

“offeree issuer” means an issuer whose securities are the subject of a take-over bid, an issuer bid or an offer to acquire;

“offeror” means a person or company who makes a take-over bid, an issuer bid or an offer to acquire;

“offeror’s securities” means securities of an offeree issuer beneficially owned, or over which control or direction is exercised, on the date of an offer to acquire, by an offeror

or any person or company acting jointly or in concert with the offeror;

“published market” means, as to any class of securities, any market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation;

“take-over bid” means an offer to acquire outstanding voting or equity securities of a class made to any person or company who is in Ontario or to any security holder of the offeree issuer whose last address as shown on the books of the offeree issuer is in Ontario, where the securities subject to the offer to acquire, together with the offeror’s securities, constitute in the aggregate 20 per cent or more of the outstanding securities of that class of securities at the date of the offer to acquire.

(2) For the purposes of this Part,

Computation
of time,
expiry
of bid

- (a) a period of days shall be computed as commencing on the day next following the event which began the period and terminating at midnight on the last day of the period, except that if the last day of the period does not fall on a business day, the period terminates at midnight on the next business day; and
- (b) a take-over bid or an issuer bid expires at the later of,
 - (i) the end of the period, including any extension, during which securities may be deposited pursuant to the bid, and
 - (ii) the time at which the offeror becomes obligated by the terms of the bid to take-up or reject securities deposited thereunder.

(3) For the purposes of this Part,

Convertible
securities

- (a) a security shall be deemed to be convertible into a security of another class if, whether or not on conditions, it is or may be convertible into or exchangeable for, or if it carries the right or obligation to acquire, a security of the other class, whether of the same or another issuer; and

- (b) a security that is convertible into a security of another class shall be deemed to be convertible into a security or securities of each class into which the second-mentioned security may be converted, either directly or through securities of one or more other classes of securities that are themselves convertible.

Deemed
beneficial
ownership

89.—(1) For the purposes of this Part, in determining the beneficial ownership of securities of an offeror or of any person or company acting jointly or in concert with the offeror, at any given date, the offeror, person or company shall be deemed to have acquired and be the beneficial owner of a security, including an unissued security, if the offeror, person or company is the beneficial owner of any security convertible within sixty days following such date into such a security or has the right or obligation, whether or not on conditions, to acquire within such sixty days beneficial ownership of the security whether through the exercise of an option, warrant, right or subscription privilege or otherwise.

Calculation
of
holdings,
joint offers

(2) Where two or more offerors acting jointly or in concert make one or more offers to acquire securities of a class, the securities subject to any such offer or offers to acquire shall be deemed to be securities subject to the offer to acquire of each such offeror for the purpose of determining whether any such offeror is making a take-over bid.

Unissued
securities
deemed
outstanding

(3) Where an offeror or any person or company acting jointly or in concert with the offeror is deemed by reason of subsection (1) to be the beneficial owner of unissued securities, the securities shall be deemed to be outstanding for the purpose of calculating the number of outstanding securities of that class in respect of that offeror's offer to acquire.

Acting jointly
or in concert

90.—(1) For the purposes of this Part, it is a question of fact as to whether a person or company is acting jointly or in concert with an offeror and, without limiting the generality of the foregoing, the following shall be presumed to be acting jointly or in concert with an offeror:

1. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, acquires or offers to acquire securities of the issuer of the same class as those subject to the offer to acquire.
2. Every person or company who, as a result of any agreement, commitment or understanding, whether

formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, intends to exercise jointly or in concert with the offeror or with any other person or company acting jointly or in concert with the offeror any voting rights attaching to any securities of the offeree issuer.

3. Every associate and affiliate of the offeror.

(2) Notwithstanding subsection (1), a registered dealer acting solely in an agency capacity for the offeror in connection with a take-over bid or an issuer bid and not executing principal transactions for its own account in the class of securities subject to the offer to acquire or performing services beyond customary dealer's functions shall not be presumed solely by reason of such agency relationship to be acting jointly or in concert with the offeror in connection with the bid. Limitation

91. For the purposes of this Part, a reference to an offer to acquire or to the acquisition or ownership of securities or to control or direction over securities shall be construed to include a direct or indirect offer to acquire or the direct or indirect acquisition or ownership of securities, or the direct or indirect control or direction over securities, as the case may be. Application to direct and indirect offers, etc.

92.—(1) Subject to the regulations, a take-over bid is exempt from sections 94 to 99 if, Exempted take-over bids

- (a) the bid is made through the facilities of a stock exchange recognized by the Commission for the purposes of this clause;
- (b) the bid is for not more than 5 per cent of the outstanding securities of a class of securities of the issuer and,
 - (i) the aggregate number of securities acquired by the offeror and any person or company acting jointly or in concert with the offeror within any period of twelve months in reliance upon the exemption provided by this clause does not, when aggregated with acquisitions made by the offeror and any person or company acting jointly or in concert with the offeror in reliance upon the exemptions provided by clauses (a) and (c), constitute in excess of 5 per cent of the outstanding securi-

ties of that class of the issuer at the commencement of the twelve month period, and

- (ii) if there is a published market for the securities acquired, the value of the consideration paid for any of the securities acquired is not in excess of the market price at the date of acquisition determined in accordance with the regulations plus reasonable brokerage fees or commissions actually paid;
- (c) all of the following conditions apply,
 - (i) purchases are made from not more than five persons or companies in the aggregate, including persons or companies outside of Ontario,
 - (ii) the bid is not made generally to security holders of the class of securities that is the subject of the bid, and
 - (iii) the value of the consideration paid for any of the securities, including brokerage fees or commissions, does not exceed 115 per cent of the market price of securities of that class at the date of the bid determined in accordance with the regulations;
- (d) the offeree issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid, and the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employment of the offeree issuer or an affiliate of the offeree issuer, and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer and who while in that employment were, and have continued after that employment to be, security holders of the offeree issuer;
- (e) the number of holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of the class subject to the bid and of securities convertible into securities of that class is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by

the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the offeree issuer is in Ontario and filed; or

- (f) it is exempted by the regulations.

(2) For the purposes of clause (1) (c), where an offeror makes an offer to acquire securities from a person or company and the offeror knows or ought to know after reasonable enquiry that,

Determi-
nation
of number of
security
holders

- (a) one or more other persons or companies on whose behalf that person or company is acting as nominee, agent, trustee, executor, administrator or other legal representative has a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made, but, where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered a single security holder in such determination; or
- (b) the person or company acquired the securities in order that the offeror might make use of the exemption provided by clause (1) (c), then each person or company from whom those securities were acquired shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made.

(3) Subject to the regulations, an issuer bid is exempt from sections 94, 95, 96, 97 and 99 if,

Exempted
issuer bids

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements;
- (b) the purchase, redemption or other acquisition is required by the instrument creating or governing the class of securities or by the statute under which

the issuer was incorporated, organized or continued;

- (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to redeem or repurchase the securities and the securities are acquired pursuant to the exercise of such right;
- (d) the securities are acquired from a current or former employee of the issuer or of an affiliate of the issuer, and if there is a published market in respect of the securities,
 - (i) the value of the consideration paid for any of the securities acquired does not exceed the market price of the securities at the date of the acquisition determined in accordance with the regulations, and
 - (ii) the aggregate number or, in the case of convertible debt securities, the aggregate principal amount of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (e) the bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this clause;
- (f) following the publication of a notice of intention in the form and manner prescribed by the regulations, the issuer purchases securities in the normal course in the open market, including through the facilities of a stock exchange, if the aggregate number, or, in the case of convertible debt securities, the aggregate principal amount, of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (g) the issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid and the number of holders of securities of the issuer is not more than fifty,

exclusive of holders who are in the employment of the issuer or an affiliate of the issuer, and exclusive of holders who were formerly in the employment of the issuer or an affiliate of the issuer and who while in that employment were, and have continued after the employment to be, security holders of the issuer;

- (h) the number of holders, whose last address as shown on the books of the issuer is in Ontario, of securities of the class subject to the bid and of securities convertible into securities of that class is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the issuer is in Ontario and filed; or

- (i) it is exempted by the regulations.

(4) A bid that is made in reliance upon any exemption in this section through the facilities of a stock exchange shall be made in accordance with the by-laws, regulations and policies of the exchange.

Stock
exchange
requirements

93.—(1) In this section “offeror” means,

Definition

- (a) an offeror making a formal bid other than a bid referred to in clause 92 (1) (e) or 92 (3) (h);
- (b) a person or company acting jointly or in concert with an offeror referred to in clause (a);
- (c) a security holder of an offeror referred to in clause (a) who, as regards the offeror, is a person or company or a member of a combination of persons or companies referred to in subparagraph iii of paragraph 11 of subsection 1 (1) or an associate or affiliate of such security holder.

(2) An offeror shall not offer to acquire, or make or enter into any agreement, commitment or understanding to acquire beneficial ownership of any securities of the class that are subject to the bid or of any securities convertible into securities of

Restrictions
on
acquisitions
during bid

that class otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the expiry of the bid.

Permitted
purchases
during
take-over bid

(3) Notwithstanding subsection (2), an offeror making a take-over bid may purchase, through the facilities of a stock exchange recognized by the Commission for the purpose of clause 92 (1) (a), securities of the class that are subject to the bid and securities convertible into securities of that class commencing on the third business day following the date of the bid until the expiry of the bid, if,

- (a) the intention to make such purchases is stated in the take-over bid circular;
- (b) the aggregate number of securities acquired under this subsection does not constitute, in the aggregate, in excess of 5 per cent of the outstanding securities of that class as at the date of the bid; and
- (c) the offeror issues and files a press release forthwith after the close of business of the exchange on each day on which securities have been purchased under this subsection disclosing the number of securities purchased on that day, the highest price paid for the securities on that day, the aggregate number of securities purchased to and including that day during the currency of the take-over bid and the average price paid for the securities.

Restrictions
on
acquisition
during issuer
bid

(4) An offeror shall not offer to acquire, or make or enter into any agreement, commitment or understanding to acquire, beneficial ownership of any securities of the class that are subject to the bid or of any securities convertible into securities of that class otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the bid's expiry, but this subsection does not apply so as to prevent the offeror from purchasing, redeeming or otherwise acquiring any such securities during such period in reliance on an exemption under clause 92 (3) (a), (b) or (c).

Integration
with pre-bid
private
transactions

(5) Where a take-over bid that is a formal bid is made by an offeror and, within the period of ninety days immediately preceding the bid, the offeror acquired beneficial ownership of securities of the class subject to the bid or of any securities convertible into securities of that class pursuant to a transaction not generally available on identical terms to holders of that class of securities,

(a) the offeror shall offer consideration for securities deposited under the bid identical to the highest consideration that was paid on a per security basis under any of such prior transactions or the offeror shall offer the cash equivalent of such consideration; and

(b) the offeror shall offer to acquire under the bid that percentage of securities of the class subject to the bid that is at least equal to the highest percentage that the number of securities acquired from a seller in such a prior transaction was of the total number of securities of that class beneficially owned by such seller at the time of the prior transaction.

(6) An offeror shall not acquire beneficial ownership of securities of the class that was subject to the bid or of any securities convertible into securities of that class by way of a transaction that is not generally available on identical terms to holders of that class of securities during the period beginning with the expiry of the bid and ending at the end of the twentieth business day thereafter, and whether or not any securities are taken up under the bid.

Restriction
on
post-bid
acquisition

(7) Subsections (5) and (6) do not apply to trades effected in the normal course on a published market, so long as,

Exceptions.
normal
course
trades

(a) any broker acting for the purchaser or seller does not perform services beyond the customary broker's function and does not receive more than reasonable fees or commissions;

(b) the purchaser or any person or company acting for the purchaser does not solicit or arrange for the solicitation of offers to sell securities of the class subject to the bid; and

(c) the seller or any person or company acting for the seller does not solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.

(8) An offeror shall not, except pursuant to the bid, sell or make or enter into any agreement, commitment or understanding to sell any securities of the class subject to the bid or securities convertible into securities of that class, on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Sales during
bid
prohibited

Exception

(9) Notwithstanding subsection (8), an offeror, before the expiry of a bid, may make or enter into an arrangement, commitment or understanding to sell securities that may be taken up by the offeror pursuant to a bid, after the expiry of the bid, if the intention to sell is disclosed in the take-over bid circular or issuer bid circular, as the case may be.

General provisions

94. Subject to the regulations, the following rules apply to every take-over bid and issuer bid:

Delivery of bid

1. The bid shall be made to all holders of securities of the class that is subject to the bid who are in Ontario, and delivered by the offeror to all holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of that class and of securities that, before the expiry of the bid, are convertible into securities of that class.

Minimum deposit period

2. The offeror shall allow at least twenty-one days from the date of the bid during which securities may be deposited pursuant to the bid.

When taking up prohibited

3. No securities deposited pursuant to the bid shall be taken up by the offeror until the expiration of twenty-one days from the date of the bid.

Withdrawal

4. Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder,
 - i. at any time before the expiration of twenty-one days from the date of the bid,
 - ii. at any time before the expiration of ten days from the date of a notice of change or variation under section 97, other than a notice of variation referred to in subsection 97 (6), if the securities have not been taken up by the offeror at the date of the notice, and
 - iii. where the securities have not been taken up and paid for by the offeror, after forty-five days from the date of the bid.

Notice of withdrawal

5. Notice of withdrawal of any securities under paragraph 4 shall be made by or on behalf of the depositing security holder by a method that provides the depositary designated under the bid with a written or printed copy and, to be effective, the notice must be actually received by the depositary and, where

notice is given in accordance with this paragraph, the offeror shall return the securities to the depositing security holder.

6. Where the bid is made for less than all of the class of securities subject to the bid and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to acquire under the bid, the securities shall be taken up and paid for by the offeror, as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each depositing security holder. *Pro rata take-up*
7. Where an offeror purchases securities as permitted by subsection 93 (3), the securities so purchased shall be counted in the determination of whether a condition as to the minimum number of securities to be deposited in the bid has been fulfilled, but shall not reduce the number of securities the offeror is bound under the bid to take up. *Effect of market purchases*
8. Subject to paragraph 9, securities deposited pursuant to the bid shall be taken up and paid for by the offeror if the terms and conditions of the bid have been complied with or waived not later than ten days following the expiry of the bid. *When securities must be taken up and paid for*
9. Any securities deposited pursuant to the bid subsequent to the date on which the offeror first takes up securities deposited under the bid shall be taken up and paid for by the offeror within ten days of the deposit of the securities. *Idem*
10. The offeror shall take up and pay for the securities deposited under the bid, in accordance with this section, where all the terms and conditions of the bid have been complied with or waived. *Taking up*
11. Where all the terms and conditions of the bid have been complied with or waived, the offeror shall forthwith issue a notice by press release to that effect, which press release shall disclose the approximate number of securities deposited and the approximate number that will be taken up. *Press release*

95. Where a take-over bid or issuer bid provides that the consideration for the securities deposited pursuant to the bid is to be paid in cash or partly in cash, the offeror shall make adequate arrangements prior to the bid to ensure that the *Financing of bid*

required funds are available to effect payment in full for all securities that the offeror has offered to acquire.

Identical
consideration

96.—(1) Subject to the regulations, where a take-over bid or issuer bid is made, all holders of the same class of securities shall be offered identical consideration.

Collateral
benefit

(2) Where a take-over bid or issuer bid is made, no person or company shall enter into any agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to the other holders of the same class of securities.

Increasing
consideration

(3) Where a variation in the terms of a take-over bid or issuer bid before the expiry of the bid increases the value of the consideration offered for the securities subject to the bid, the offeror shall pay such increased consideration to each person or company whose securities are taken up pursuant to the bid, whether or not such securities were taken up by the offeror before the variation.

Offeror's
circular

97.—(1) An offeror shall deliver, with or as part of a take-over bid or issuer bid, a take-over bid circular or issuer bid circular, as the case may be.

Notice of
change
in
information

(2) Where, before the expiry of a take-over bid or issuer bid or after the expiry of the bid but before the expiry of all rights to withdraw the relevant securities, a change has occurred in the information contained in a take-over bid circular or issuer bid circular or in any notice of change or notice of variation that would reasonably be expected to affect the decision of the holders of the securities of the offeree issuer to accept or reject the bid, a notice of the change shall be delivered to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of the occurrence of the change.

Idem

(3) Subsection (2) does not apply to a change that is not within the control of the offeror or of an affiliate of the offeror unless it is a change in a material fact relating to the securities being offered in exchange for securities of the offeree issuer.

Variation in
terms of bid

(4) Where there is a variation in the terms of a take-over bid or issuer bid, including any extension of the period during which securities may be deposited thereunder and whether or not the variation results from the exercise of any right contained in the bid, a notice of the variation shall be delivered to every person or company to whom the take-over bid circu-

lar or issuer bid circular was required to be delivered and whose securities were not taken up at the date of the variation.

(5) Subject to subsection (6), where there is a variation in the terms of a take-over bid or issuer bid, the period during which securities may be deposited pursuant to the bid shall not expire before ten days after the notice of variation has been delivered. Idem

(6) Subsection (5) does not apply to a variation in the terms of a bid consisting solely of, Idem

- (a) an increase in the amount of cash offered for the securities that are subject to the bid; or
- (b) the waiver of a condition in the bid where the consideration offered for the securities that are subject to the bid consists solely of cash.

(7) A take-over bid circular, issuer bid circular, notice of change and notice of variation shall be in the form and shall contain the information required by this Part and the regulations. Content

98.—(1) Where a take-over bid has been made, a directors' circular shall be prepared and delivered by the board of directors of an offeree issuer to every person and company to whom a take-over bid must be delivered under paragraph 1 of section 94, not later than ten days after the date of the bid. Directors' circular

(2) The board of directors shall include in a directors' circular either a recommendation to accept or to reject a take-over bid and the reasons for their recommendation, or a statement that they are unable to make or are not making a recommendation and if no recommendation is made, the reasons for not making a recommendation. Recommendation by board

(3) An individual director or officer may recommend acceptance or rejection of a take-over bid if the director or officer delivers with the recommendation a circular prepared in accordance with the regulations. Individual officer's or director's circular

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending or delivering a directors' circular, advise its security holders of this fact and may advise them not to tender their securities until further communication is received from the directors. Advising of consideration

Advising of
decision of
directors

(5) Where subsection (4) applies, the board of directors shall deliver the recommendation or the decision not to make a recommendation at least seven days before the scheduled expiry of the period during which securities may be deposited under the bid.

Notice of
change

(6) Where, before the expiry of a take-over bid or after the expiry of the bid but before the expiry of all rights to withdraw the securities that have been deposited under the bid,

- (a) a change has occurred in the information contained in a directors' circular or in any notice of change to a directors' circular that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, the board of directors of the offeree issuer shall forthwith deliver a notice of the change to every person or company to whom the circular was required to be sent disclosing the nature and substance of the change; or
- (b) a change has occurred in the information contained in an individual director's or officer's circular or any notice of change thereto that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, other than a change that is not within the control of the individual director or officer, as the case may be, the individual director or officer, as the case may be, shall forthwith deliver a notice of change in relation thereto to the board of directors.

Circulation of
individual
circulars and
notices

(7) Where an individual director or officer submits a circular under subsection (3) or a notice of change under clause (6) (b) to the board of directors, the board, at the offeree issuer's expense, shall deliver a copy of the circular or notice to the persons and companies referred to in subsection (1).

Content

(8) A directors' circular, director's or officer's circular and a notice of change shall be in the form and contain the information required by this Part and the regulations.

Delivery to
offeree issuer

99.—(1) A take-over bid and any notice of change or variation shall be filed and shall be delivered to the offeree issuer at its principal office and an issuer bid and any notice of change or variation shall be filed on the day such bid or notice is delivered to holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery to
offeree issuer
and
Commission

(2) Every directors' circular and every individual director's or officer's circular or any notice of change in relation thereto

that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror at its principal office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

(3) Except as provided by the regulations, a take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail to the intended recipient and any bid, circular or notice so mailed shall be deemed to have been delivered and such bid, circular or notice shall be deemed conclusively for the purposes of sections 94, 97 and 98 and this section to have been dated as of the date on which it was so mailed to all or substantially all of the persons and companies entitled to receive it.

Delivery by
mail, date of
bid, etc.

100.—(1) Every person or company that, other than by means of a formal bid, acquires beneficial ownership of, or the power to exercise control or direction over, voting or equity securities of any class of a reporting issuer that, together with such person's or company's securities of that class, would constitute 10 per cent or more of the outstanding securities of that class,

Securities,
reports of
acquisitions

- (a) shall issue and file forthwith a press release disclosing the identity of the offeror and the extent of the beneficial ownership, control and direction; and
- (b) within two business days, shall file a report disclosing the prescribed information.

(2) Where a person or company is required to file a report under subsection (1) or a further report under this subsection and the person or company acquires beneficial ownership of, or the power to exercise control or direction over, an additional 2 per cent or more of the outstanding securities of the class or there is a change in any other material fact in such a report, the person or company that made the filing,

Change in
material facts

- (a) shall issue and file forthwith a press release disclosing the nature of the change; and
- (b) within two business days of the change, shall file a further report disclosing the nature of the change.

(3) During the period commencing on the occurrence of an event in respect of which a report or further report is required

Restrictions
on purchases

to be filed under this section and terminating on the expiry of one business day from the date that the report or further report is filed, the person or company required to file the report or further report and persons and companies acting jointly or in concert with such first mentioned person or company shall not acquire or offer to acquire beneficial ownership of any securities of the class in respect of which the report or further report is required to be filed or any securities convertible into securities of that class.

Exception

(4) Subsection (3) does not apply to an offeror that is the beneficial owner of, or has the power to exercise control or direction over, securities that constitute 20 per cent or more of the outstanding securities of that class.

Press release
re:
acquisitions
by person
other
than offeror
during bid

100a.—(1) Where, after a formal bid has been made for equity securities of an offeree issuer that is a reporting issuer and before the expiry of the bid, an offeror, other than the person or company making the bid, acquires beneficial ownership of, or the power to exercise control or direction over, voting or equity securities of any class of the offeree issuer which, when added to such offeror's securities of that class, constitute 5 per cent or more of the outstanding securities of a class of equity securities, the offeror shall, not later than the opening of trading on the next business day, issue a press release disclosing the offeror's identity, the number of securities of that class acquired since the commencement of the bid and the number of securities of that class beneficially owned or over which control or direction is exercised by the offeror and every person or company acting jointly or in concert with the offeror and, forthwith, the offeror shall file a copy of the press release.

Further press
releases

(2) Where an offeror that has filed a press release under subsection (1) or a further press release under this subsection or any person or company acting jointly or in concert with the offeror acquires beneficial ownership of, or control or direction over, voting or equity securities of the class in respect of which the press release was filed, which, when added to the securities of that class acquired after the filing of the press release by the offeror and any person or company acting jointly or in concert with the offeror, aggregates an additional 2 per cent or more of the class of outstanding securities, the offeror shall, not later than the opening of trading on the next business day, issue a further press release disclosing all changes in information since the filing of the immediately preceding press release required under this section and, forthwith, the offeror shall file a copy of the press release.

100b. Where the facts required to be reported under section 100 and Part XX are identical, a report is required only under the provision requiring the earlier report.

No
duplication
of reports

100c.—(1) Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order,

Applications
to the
Commission

- (a) restraining the distribution of any document used or issued in connection with a take-over bid or issuer bid;
- (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
- (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

(2) Upon an application by any interested person, the Commission may, subject to such terms and conditions as it may impose,

Idem

- (a) decide for the purposes of subsection 96 (3) that a collateral agreement, commitment or understanding with a selling security holder is made for reasons other than to increase the value of the consideration paid to the selling security holder for the securities of the selling security holder and that the agreement or arrangement may be entered into notwithstanding that subsection;
- (b) vary any time period set out in this Part and the regulations related to this Part; and
- (c) exempt any person or company from any of the requirements of this Part or the regulations related to this Part where the Commission is satisfied that to do so would not be prejudicial to the public interest.

Applications
to the
High Court

100d.—(1) An interested person may apply to the High Court for an order under this section.

Idem

(2) Where, on an application under subsection (1), the judge hearing the application is satisfied that a person or company has not complied with this Part or the regulations related to this Part, the judge may make such interim or final order as the judge thinks fit, including, without limiting the generality of the foregoing,

- (a) an order compensating any interested person, who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations related to this Part;
- (b) an order rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security;
- (c) an order requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or an issuer bid;
- (d) an order prohibiting any person or company from exercising any or all of the voting rights attaching to any securities; and
- (e) an order requiring the trial of an issue.

Transition

100e. This Part and section 129 and the regulations related thereto, as they read immediately before the coming into force of this section, shall continue to apply in respect of every take-over bid and issuer bid commenced before the coming into force of this section.

8. Section 103 of the said Act is repealed.

9.—(1) Subsections 127 (1) and (2) of the said Act are repealed and the following substituted therefor:

Liability for
misrepresentation in
circular

(1) Where a take-over bid circular sent to the security holders of an offeree issuer as required by Part XIX contains a misrepresentation, every such security holder shall be deemed to have relied on the misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular was signed was a director of the offeror;

- (b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by the person or company; and
- (c) each person who signed a certificate in the circular other than the persons included in clause (a).

(2) Where a directors' circular or a director's or officer's circular delivered to the security holders of an offeree issuer as required by Part XIX contains a misrepresentation, every such security holder shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular. Idem

(2) Subsection 127 (4) of the said Act is repealed and the following substituted therefor:

(4) No person or company is liable under subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation. Defence

(3) Subsection 127 (10) of the said Act is repealed and the following substituted therefor:

(10) Where the offeror,

- (a) in a take-over bid exempted from the provisions of Part XIX by clause 92 (1) (a); or
- (b) in an issuer bid exempted from the provisions of Part XIX by clause 92 (3) (e),

Deemed
take-over
bid circular
or issuer bid
circular

is required, by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made, to file with it or to deliver to security holders of the offeree issuer a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, delivered to the security holders as required by Part XIX.

10. Section 129 of the said Act is repealed.

11. Section 130 of the said Act is repealed and the following substituted therefor:

130. A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered Liability of
dealer or
offeror

in compliance with subsection 70 (1) or a security holder to whom a take-over bid and a take-over bid circular or an issuer bid and an issuer bid circular were required to be delivered but were not delivered in compliance with section 94 and subsection 97 (1) has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement.

12.—(1) Section 139 of the said Act is amended by adding thereto the following paragraph:

18a. prescribing terms and conditions upon which a person or company may be designated as a recognized clearing agency.

(2) Paragraphs 32 and 33 of the said section 139 are repealed and the following substituted therefor:

32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Parts XIX and XX, including, without restricting the generality of the foregoing, providing for exemptions in addition to those set out in subsections 92 (1) and (3), restricting any exemption set out in those subsections, prescribing rules in addition to those set out in section 94 and varying any rule set out in that section and prescribing the form and content of any circular, report or other document required to be delivered or filed.

Commence-
ment

13. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

14. The short title of this Act is the *Securities Amendment Act, 1986*.



Bill 69

An Act to establish the Insurance Rate Control Board

Mr. Swart

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill establishes an insurance rate control board that would have the power to assure the availability and adequacy of all classes of casualty, property and liability insurance and to fix rates which are just and reasonable.

Bill 69

1986

An Act to establish the Insurance Rate Control Board

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means The Insurance Rate Control Board;

“Insurance” means casualty, property and liability insurance;

“Minister” means the Minister of Consumer and Commercial Relations.

2.—(1) A board to be known as “The Insurance Rate Control Board” is hereby established. Board established

(2) The Board shall be composed of not fewer than seven and not more than nine members appointed by the Lieutenant Governor in Council from among representatives of labour, consumer and other citizens' groups. Composition

3. The Lieutenant Governor in Council may designate one of the members to be chairman of the Board. Chairman

4. Five members of the Board constitute a quorum. Quorum

5. The Lieutenant Governor in Council may fill any vacancy among the members of the Board. Vacancies

6. Subject to the provisions of the *Statutory Powers Procedure Act*, the Board may determine its own procedure for the conduct of hearings. Procedure
R.S.O. 1980,
c. 484

7. The objects of the Board are and it has power, Objects and powers

- (a) to assure availability and adequacy of all classes of insurance;

- (b) on its own initiative or on application by insurance companies, to consider rate changes for insurance generally and for specific classifications;
- (c) to fix insurance rates that are just and reasonable for all classes;
- (d) to conduct public hearings with respect to proposed changes in rates and policy.

Appeal of
decision

8. Any person who in person or in writing makes a submission at a hearing may appeal in writing the decision of the Board to the Lieutenant Governor in Council within twenty-eight days of the date of the decision of the Board.

Annual
report

9. The Board shall make a report annually to the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is the *Insurance Rate Control Board Act, 1986*.

Bill 70

An Act to amend the Provincial Offences Act

The Hon. I. Scott
Attorney General

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. "Municipality" is defined for all purposes of the Act.

SECTION 2. This permits a justice to enter a default conviction for a municipal by-law offence without proof of the by-law if the defendant does not want to dispute the charge.

SECTION 3. These words are no longer necessary because of section 1, above.

SECTION 4.—Subsection 1. The period for filing a parking infraction certificate in court is extended from thirty to forty-five days.

Subsection 2. At the time of a parking infraction under a municipal by-law, the officer is not required to put the by-law number on the notice of infraction.

Subsection 3. Where an operator, rather than an owner, of a vehicle is being charged with a parking offence, the amendments require service of a parking infraction notice on the operator to be made personally and at the time of the offence. Provision is also made for proof of service.

SECTION 5. A certificate of parking infraction issued under a municipal by-law is not required to contain the number of the by-law as long as the notice of trial does contain the by-law number.

SECTION 6.—Subsection 1. Where a defendant does not want to dispute a municipal parking charge, evidence that there was no request for a hearing and no payment of the fine may be given by certificate of the clerk of the municipality or the clerk's designee. A justice is permitted to enter a conviction for a municipal by-law parking offence without proof of the by-law.

Subsection 2. The words deleted are stricter than the general provisions for paying fines under section 67. The deletion of the words permits section 67 to apply.

SECTIONS 7 and 8. These sections require the payment of administrative fees, as prescribed by the regulations, where fines go into default.

SECTION 9. Section 15 of the Act brings Part II into effect in municipalities two years after Part II is proclaimed in force. Section 149 of the Act is amended to preserve the application of the old procedure during the period between the proclamation of Part II and the expiration of the two year period.

Bill 70

1986

An Act to amend the Provincial Offences Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(1a) In this Act, "municipality" includes a regional, district or metropolitan municipality. Idem

2. Section 9 of the said Act is amended by adding thereto the following subsection:

(2) Where a defendant is deemed to not wish to dispute a charge under subsection (1) in respect of an offence under a by-law of a municipality, the justice shall enter a conviction under clause (1) (a) without proof of the by-law that creates the offence if the certificate of offence is complete and regular on its face. Where conviction without proof of by-law

3. Subsection 15 (2) of the said Act is amended by striking out "including a regional, district or metropolitan municipality" in the second and third lines.

4.—(1) Subsection 16 (1) of the said Act is repealed and the following substituted therefor:

(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing in the office of the court, Commencement of proceeding

(a) a certificate of parking infraction; and

(b) where the parking infraction is alleged against the defendant as owner of a vehicle, evidence of the ownership of the vehicle,

within forty-five days after the alleged infraction occurred.

(2) Section 16 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(2a) A provincial offences officer may issue a certificate and notice under subsection (2) in respect of a parking infraction under a by-law of a municipality without including on the certificate or notice a reference to the number of the by-law that creates the offence.

(3) The said section 16 is further amended by adding thereto the following subsections:

Service of
notice on
operator

(4) The issuing provincial offences officer may serve the parking infraction notice on the operator of a vehicle by delivering it to the operator personally at the time of the alleged parking infraction.

Certificate
of service

(5) The provincial offences officer who issued the certificate of parking infraction shall certify on the certificate of parking infraction that the officer served the parking infraction notice on the person charged and the date and method of service.

Certificate
as evidence

(6) A certificate of service of a parking infraction notice purporting to be signed by the provincial offences officer issuing it shall be received in evidence and is proof of service in the absence of evidence to the contrary.

5. Section 17 of the said Act is amended by adding thereto the following subsections:

Certificate
not invalid
without
by-law
number

(3) Subject to subsection (4), where a certificate of parking infraction is issued for an infraction under a by-law of a municipality, the certificate is not insufficient or irregular by reason only that it does not identify the by-law that creates the offence.

Exception

(4) Where the defendant delivers a notice under subsection (1), subsection (3) does not apply unless the notice of trial given to the defendant under subsection (2) identifies the by-law.

6.—(1) Section 19 of the said Act is amended by adding thereto the following subsections:

Certificate as
evidence

(1a) Where a certificate of parking infraction is issued for an infraction under a by-law of a municipality, a certificate purporting to be signed by the clerk of the municipality, or a person designated by the clerk,

- (a) that payment has not been made under section 18; and
- (b) that notice of the defendant's desire to appear or to be represented at trial has not been delivered to the place specified in the parking infraction notice,

shall be received in evidence and is proof of the facts contained therein in the absence of evidence to the contrary.

(1b) Where a defendant is deemed to not wish to dispute a charge under subsection (1) in respect of a parking infraction under a by-law of a municipality, the justice shall enter a conviction under subsection (1) without proof of the by-law which creates the offence if the justice is satisfied that all other criteria under subsection (1) for entering a conviction have been met.

Where conviction without proof of by-law

(2) Subsection 19 (3) of the said Act is amended by striking out "and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default" in the fourth, fifth and sixth lines.

7. The said Act is amended by adding thereto the following section:

70a.—(1) Where the payment of a fine is in default and the time for payment is not extended or further extended under subsection 67 (6), the defendant shall pay the administrative fee prescribed by the regulations.

Fee where fine in default

(2) For the purpose of making and enforcing payment, a fee payable under this section shall be deemed to be part of the fine that is in default.

Fee collectable as a fine

8. Section 91 of the said Act is amended by adding thereto the following clause:

- (g) prescribing administrative fees for the purposes of subsection 70a (1) for the late payment of fines or classes of fines, and prescribing the classes.

9. Section 149 of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 87, section 1, is amended by adding at the end thereof "or, in the case of parking infractions under municipal by-laws, until Part II applies in the municipality".

10.—(1) This Act, except sections 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Commencement

Idem

R.S.O. 1980,
c. 400

(2) Sections 3, 4, 5 and 6 come into force on the day Part II of the *Provincial Offences Act* is proclaimed in force.

Short title

11. The short title of this Act is the *Provincial Offences Amendment Act, 1986*.

Bill 70

(Chapter 42
Statutes of Ontario, 1986)

An Act to amend the Provincial Offences Act

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	October 30th, 1986
<i>3rd Reading</i>	November 4th, 1986
<i>Royal Assent</i>	November 4th, 1986

Bill 70

1986

An Act to amend the Provincial Offences Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(1a) In this Act, "municipality" includes a regional, district or metropolitan municipality. Idem

2. Section 9 of the said Act is amended by adding thereto the following subsection:

(2) Where a defendant is deemed to not wish to dispute a charge under subsection (1) in respect of an offence under a by-law of a municipality, the justice shall enter a conviction under clause (1) (a) without proof of the by-law that creates the offence if the certificate of offence is complete and regular on its face. Where conviction without proof of by-law

3. Subsection 15 (2) of the said Act is amended by striking out "including a regional, district or metropolitan municipality" in the second and third lines.

4.—(1) Subsection 16 (1) of the said Act is repealed and the following substituted therefor:

(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing in the office of the court, Commencement of proceeding

- (a) a certificate of parking infraction; and
- (b) where the parking infraction is alleged against the defendant as owner of a vehicle, evidence of the ownership of the vehicle,

within forty-five days after the alleged infraction occurred.

(2) Section 16 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(2a) A provincial offences officer may issue a certificate and notice under subsection (2) in respect of a parking infraction under a by-law of a municipality without including on the certificate or notice a reference to the number of the by-law that creates the offence.

(3) The said section 16 is further amended by adding thereto the following subsections:

Service of
notice on
operator

(4) The issuing provincial offences officer may serve the parking infraction notice on the operator of a vehicle by delivering it to the operator personally at the time of the alleged parking infraction.

Certificate
of service

(5) The provincial offences officer who issued the certificate of parking infraction shall certify on the certificate of parking infraction that the officer served the parking infraction notice on the person charged and the date and method of service.

Certificate
as evidence

(6) A certificate of service of a parking infraction notice purporting to be signed by the provincial offences officer issuing it shall be received in evidence and is proof of service in the absence of evidence to the contrary.

5. Section 17 of the said Act is amended by adding thereto the following subsections:

Certificate
not invalid
without
by-law
number

(3) Subject to subsection (4), where a certificate of parking infraction is issued for an infraction under a by-law of a municipality, the certificate is not insufficient or irregular by reason only that it does not identify the by-law that creates the offence.

Exception

(4) Where the defendant delivers a notice under subsection (1), subsection (3) does not apply unless the notice of trial given to the defendant under subsection (2) identifies the by-law.

6.—(1) Section 19 of the said Act is amended by adding thereto the following subsections:

Certificate as
evidence

(1a) Where a certificate of parking infraction is issued for an infraction under a by-law of a municipality, a certificate purporting to be signed by the clerk of the municipality, or a person designated by the clerk,

- (a) that payment has not been made under section 18; and
- (b) that notice of the defendant's desire to appear or to be represented at trial has not been delivered to the place specified in the parking infraction notice,

shall be received in evidence and is proof of the facts contained therein in the absence of evidence to the contrary.

(1b) Where a defendant is deemed to not wish to dispute a charge under subsection (1) in respect of a parking infraction under a by-law of a municipality, the justice shall enter a conviction under subsection (1) without proof of the by-law which creates the offence if the justice is satisfied that all other criteria under subsection (1) for entering a conviction have been met.

Where
conviction
without proof
of by-law

(2) Subsection 19 (3) of the said Act is amended by striking out "and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default" in the fourth, fifth and sixth lines.

7. The said Act is amended by adding thereto the following section:

70a.—(1) Where the payment of a fine is in default and the time for payment is not extended or further extended under subsection 67 (6), the defendant shall pay the administrative fee prescribed by the regulations.

Fee
where fine
in default

(2) For the purpose of making and enforcing payment, a fee payable under this section shall be deemed to be part of the fine that is in default.

Fee
collectable
as a fine

8. Section 91 of the said Act is amended by adding thereto the following clause:

- (g) prescribing administrative fees for the purposes of subsection 70a (1) for the late payment of fines or classes of fines, and prescribing the classes.

9. Section 149 of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 87, section 1, is amended by adding at the end thereof "or, in the case of parking infractions under municipal by-laws, until Part II applies in the municipality".

10.—(1) This Act, except sections 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Commence-
ment

Idem

R.S.O. 1980,
c. 400

(2) Sections 3, 4, 5 and 6 come into force on the day Part II of the *Provincial Offences Act* is proclaimed in force.

Short title

11. The short title of this Act is the *Provincial Offences Amendment Act, 1986*.

Bill 71

An Act to protect the Public Health and Comfort and the Environment by Prohibiting and Controlling Smoking in Public Places

Mr. Sterling

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill prohibits smoking in indoor public places, public vehicles and in certain areas of health facilities and authorizes the Lieutenant Governor in Council to prohibit smoking in the workplace. Provision is made for the designation of smoking areas in public places where to do so will not interfere with non-smokers. Patients in health facilities are given the right to request a non-smoking room. Municipalities are authorized to pass non-smoking by-laws.

Bill 71

1986

**An Act to protect the
Public Health and Comfort and the Environment by
Prohibiting and Controlling Smoking in Public Places**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“enclosed public place” means,

- (a) an enclosed indoor area that is open to the public during the times that it is open to the public and, without limiting the generality of the foregoing, includes those parts of a restaurant, health care facility, retail store, commercial establishment or an office building or educational institution that are normally open to clients, customers, students or other members of the public, and
- (b) any common carrier or vehicle available for hire to the general public;

“health care facility” means a facility in which patients are or may be admitted for medical treatment or care and includes a hospital, nursing home and medical clinic;

“prescribed” means prescribed by the regulations made under this Act;

“smoking” includes holding or having control over a lighted cigarette, cigar or pipe or any other lighted smoking equipment;

“smoking area” means an area in which smoking is permitted.

2.—(1) Subject to subsection (2), no person shall smoke a cigarette, cigar, pipe or any other lighted smoking equipment in an enclosed public place except as prescribed.

No smoking
in public
place

Designate
smoking
areas

(2) Subject to subsection (3), the person in charge of an enclosed public place may designate a specific area or areas of that place as a smoking area if,

- (a) a reasonably substantial area of the place is not so designated; and
- (b) the existing physical barriers and ventilation systems are adequate to minimize any harmful effects or discomfort the smoking may cause to persons in the area not so designated.

Exception
for schools

(3) Subsection (2) does not apply to those areas of a day care centre, nursery school or an elementary or secondary school to which students have access while students are present in the school or to a school bus transporting students.

Duties of
person in
charge

3. The proprietor or other person in charge of an enclosed public place shall make reasonable efforts to prevent persons from smoking in the place by,

- (a) posting a sign in the prescribed form and manner to notify persons that smoking is prohibited;
- (b) where there are seats in the place, clearly designating a section of seats in which smoking is prohibited;
- (c) asking smokers to refrain from smoking if a client who is suffering discomfort from smoke so requests; or
- (d) taking any other appropriate action.

No smoking
in health
facility

4.—(1) No person shall smoke a cigarette, cigar, pipe or other lighted smoking equipment in the following areas of a health facility,

- (a) any kitchen, laboratory or corridor;
- (b) a patient's room if the patient has requested that there be no smoking in his or her room; or
- (c) the non-smoking area of a waiting room.

Right of
patient to
non-smoking
room

(2) Every patient in a health facility has the right to accommodation in a non-smoking room and the person in charge of a health facility shall ensure that on admission every patient is advised of that right.

5. No person shall smoke a cigarette, cigar, pipe or other lighted smoking equipment in an area of a workplace that is prescribed as a non-smoking area.

No smoking in workplace, if prescribed

6.—(1) Nothing in this Act limits the right of a proprietor or other person in charge of an enclosed public place or a health facility to further limit or ban smoking on all or a part of its premises.

Person in charge may further limit smoking

(2) The council of a municipality may pass a by-law that further limits or bans smoking in any enclosed public place in that municipality.

Municipal by-law may further limit smoking

7. Every person who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Offence

8. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) exempting certain classes of enclosed public places from the application of this Act where their size makes the application impracticable;
- (b) prescribing the form and manner of posting signs (clause 3 (a));
- (c) defining "workplace" for the purposes of section 5, prohibiting persons from smoking a cigarette, cigar, pipe or other lighted smoking equipment in the workplace or in any class of workplace and authorizing the person in charge of a workplace to designate areas of the workplace where smoking is permitted;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purposes of this Act.

9. This Act comes into force on the day it receives Royal Assent.

Commencement

10. The short title of this Act is the *Non-Smokers' Protection Act, 1986*.

Short title

Bill 71

An Act to protect the Public Health and Comfort and the Environment by Prohibiting and Controlling Smoking in Public Places

Mr. Sterling

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTE

The Bill limits smoking in indoor public places, public vehicles and in certain areas of health care facilities and requires employers to prohibit smoking in an enclosed area of a workplace if $\frac{1}{3}$ of the persons working in the area so request or if a person whose health is adversely affected by smoking in the area so requests. Provision is made for the designation of smoking areas in public places and in workplaces where to do so will not interfere with non-smokers. Patients in health care facilities are given the right in most cases to request a non-smoking room. Municipalities are authorized to pass non-smoking by-laws.

Bill 71

1986

**An Act to protect the
Public Health and Comfort and the Environment by
Prohibiting and Controlling Smoking in Public Places**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“enclosed public place” means,

- (a) an enclosed indoor area that is open to the public during the times that it is open to the public and, without limiting the generality of the foregoing, includes those parts of a restaurant, health care facility, retail store, commercial establishment or an office building or educational institution that are normally open to clients, customers, patients, students or other members of the public, and

- (b) a bus or other vehicle that is used to provide transportation to the general public for a fee during the time that it is so used;

“health care facility” means a facility in which patients are or may be admitted for medical treatment or care and includes a hospital, nursing home and medical clinic;

“prescribed” means prescribed by the regulations made under this Act;

“smoking” includes holding or having control over a lighted cigarette, cigar or pipe or any other lighted smoking equipment and “smoke” has a corresponding meaning;

2.—(1) In this section, “medical officer of health” means a medical officer of health as defined in the *Health Protection and Promotion Act, 1983*.

Definition
1983, c. 10

Enforcement
of Act

(2) A medical officer of health for an area or a person performing the duties of a medical officer of health for an area is responsible for the enforcement of this Act in that area and for the purpose has the powers of a medical officer of health under Part V of the *Health Protection and Promotion Act, 1983*.

1983, c. 10

No smoking
in public
place

3.—(1) Subject to the regulations, no person shall smoke in an enclosed public place unless the person is in a specific area of that place designated under subsection (2) as an area where smoking is permitted.

Designate
smoking
areas

(2) The person in charge of an enclosed public place may designate a specific area of that place as an area where smoking is permitted by posting a sign in the prescribed form and manner if,

(a) a reasonably substantial area of the place is not so designated; and

(b) the physical barriers and ventilation systems are adequate to minimize any harmful effects or discomfort the smoking may cause to persons in the area not so designated.

Exception
for schools

(3) Subsection (2) does not apply to those areas of a day care centre, nursery school or an elementary or secondary school to which students have access while students are present in the school or to a school bus while transporting students.

No smoking
in health
care facility

4.—(1) No person shall smoke in an area of a health care facility that is not an enclosed public place if the area is,

(a) a kitchen or laboratory; or

(b) a patient's room if the patient has requested that there be no smoking in his or her room.

Patient
advised
of right to
no smoking
in room

(2) A patient in a health care facility has the right to request that there be no smoking in his or her room and the person in charge of a health care facility shall ensure that on admission every patient is advised that if the patient so requests, smoking will be prohibited in that room.

Exception

(3) Despite subsections (1) and (2), where a patient's attending physician informs the administrator of a health care facility in writing that there are reasonable grounds to believe that,

- (a) prohibiting smoking in the patient's room might put the health of the patient at risk; and
- (b) the risk to the patient of prohibiting smoking is greater than the risk to another patient who requests a non-smoking room of exposure to second hand smoke,

and there is no other room available for the other patient, the administrator may permit the patient mentioned in clause (a) to smoke in the room, subject to whatever conditions the administrator considers appropriate.

5.—(1) No person shall smoke in an area of a workplace that is designated by the employer as an area where smoking is prohibited.

No smoking
in
workplace,
if designated

(2) An employer shall designate an enclosed area of a workplace as an area where smoking is prohibited if at least one third of the persons working in that area request the designation or if a person working in that area whose health is adversely affected by smoking in the area requests the designation.

Designate
no smoking
areas

(3) Where an employer designates an enclosed area of a workplace as an area where smoking is prohibited, the employer may designate a specific area of that place as an area where smoking is permitted if the physical barriers and ventilation systems are adequate to minimize any harmful effects or discomfort the smoking may cause to the persons requesting that there be no smoking.

Designate
smoking
areas

(4) No person shall dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate another person because the other person has made a request under subsection (2).

No discipline
for
requesting

6.—(1) The person in charge of an enclosed public place or a health care facility shall make reasonable efforts to prevent persons from smoking in areas where smoking is prohibited by or under this Act, including,


Duties of
person in
charge

- (a) posting a sign in the prescribed form and manner to notify persons that smoking is prohibited;
- (b) asking smokers to refrain from smoking if a person so requests; and
- (c) taking any other appropriate action.

Duties of employer

(2) An employer shall make reasonable efforts to prevent persons from smoking in areas of a workplace where smoking is prohibited under this Act, including asking smokers to refrain from smoking if a person so requests and taking any other appropriate action.

Person in charge may further limit smoking

7.—(1) Nothing in this Act limits the right of an employer or other person in charge of an enclosed public place, a workplace or a health care facility to further limit or ban smoking on all or a part of its premises. 

Municipal by-law may further limit smoking

(2) The council of a municipality may pass a by-law that further limits or bans smoking in enclosed public places, in health care facilities or in any class thereof in that municipality.

Offence

8.—(1) Every person who contravenes a provision of this Act other than subsection 4 (2), 5 (2) or (4) or section 6 or of the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Idem

(2) Every person who contravenes subsection 4 (2), 5 (2) or (4) or section 6 is guilty of an offence and on conviction is liable to a fine of not more than \$500 for a first offence or not more than \$3,000 for a second or subsequent offence.

Crown bound

9. This Act binds the Crown.

Regulations

10. The Lieutenant Governor in Council may make regulations,


- (a) exempting specified classes of enclosed public places from the application of any provision of this Act where, in the opinion of the Lieutenant Governor in Council, their application is impracticable and for the purpose prescribing conditions to be met before the exemption applies;
- (b) prescribing the form and manner of posting signs;
- (c) prescribing factors an employer shall take into account in determining whether a person's health is adversely affected for the purpose of subsection 5 (2).

Commence-ment

11.—(1) This Act, except section 5 and subsection 7 (2), comes into force on the 30th day of June, 1987.

Idem

(2) Section 5 comes into force on the 1st day of January, 1988.

(3) Subsection 7 (2) shall be deemed to have come into force on the 1st day of January, 1980.  Idem

12. The short title of this Act is the *Non-Smokers' Protection Act, 1986*. Short title

Bill 72

An Act to amend the Powers of Attorney Act

The Hon. I. Scott
Attorney General

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the amendment is to preserve the original intent that the protection provided by section 3 of the Act is to be available when any authority under a power of attorney comes to an end. The amendment is to remove possible doubt and is made retroactive to the date of the coming into force of the provision being amended.

Bill 72**1986****An Act to amend the Powers of Attorney Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (1) of the *Powers of Attorney Act*, being chapter 386 of the Revised Statutes of Ontario, 1980, is amended by inserting after "terminated" in the first line "or revoked or becomes invalid" and by inserting after "termination" in the fifth line "revocation or invalidity".

2. This Act shall be deemed to have come into force on the 20th day of December, 1979. Commence-
ment

3. The short title of this Act is the *Powers of Attorney Amendment Act, 1986*. Short title

Bill 72

*(Chapter 49
Statutes of Ontario, 1986)*

An Act to amend the Powers of Attorney Act

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	November 5th, 1986
<i>3rd Reading</i>	November 18th, 1986
<i>Royal Assent</i>	November 18th, 1986

Bill 72**1986****An Act to amend the Powers of Attorney Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (1) of the *Powers of Attorney Act*, being chapter 386 of the Revised Statutes of Ontario, 1980, is amended by inserting after "terminated" in the first line "or revoked or becomes invalid" and by inserting after "termination" in the fifth line "revocation or invalidity".

2. This Act shall be deemed to have come into force on the 20th day of December, 1979. Commence-
ment

3. The short title of this Act is the *Powers of Attorney Amendment Act, 1986*. Short title

On the Generalization of the Law of Conservation of Energy

THEORY OF THE CONSERVATION OF ENERGY. I. THE GENERAL PRINCIPLE. THE CONSERVATION OF ENERGY IS A LAW OF NATURE WHICH IS VALID IN ALL CASES OF PHYSICAL CHANGE.

THE CONSERVATION OF ENERGY IS A LAW OF NATURE WHICH IS VALID IN ALL CASES OF PHYSICAL CHANGE. THE CONSERVATION OF ENERGY IS A LAW OF NATURE WHICH IS VALID IN ALL CASES OF PHYSICAL CHANGE.

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Bill 73

An Act to amend the Public Vehicles Act

Mr. Martel

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would prevent school bus passengers from standing in the aisles while the bus is in motion.

Subsection 23 (1) of the Act now reads:

(1) No driver or operator shall allow passengers to ride on the fenders or any other part of a public vehicle other than the seats thereof, except that a vehicle may carry as standing passengers in the aisles thereof not more than one-third the number of persons for which seats are provided.

Bill 73**1986****An Act to amend the Public Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 23 (1) of the *Public Vehicles Act*, being chapter 425 of the Revised Statutes of Ontario, 1980, is amended by inserting after "vehicle" where it appears the second time in the third line "other than a school bus as defined in section 151 of the *Highway Traffic Act*".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Public Vehicles Amendment Act, 1986*. Short title

Bill 74

An Act to amend the Operating Engineers Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act currently provides for provisional certificates of qualification to be issued to applicants who qualified for similar certificates in other provinces.

The concept of provisional certificates is being removed but provision is being made for regular certificates to be issued to applicants who qualified in other provinces.

Bill 74

1986

An Act to amend the Operating Engineers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 15 (1) of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, is repealed.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 42, section 12, is repealed and the following substituted therefor:

23.—(1) The chief officer shall, upon payment of the fee prescribed by the regulations, issue a certificate of qualification to every person who applies therefor and holds a subsisting certificate issued by another province or territory of Canada that qualifies the person to perform the work or duties of an operating engineer or operator in such province or territory.

Certificate of qualifications

(2) The certificate of qualification issued under subsection (1) shall be of a class that authorizes the holder of the certificate to perform the work and duties that, in the opinion of the chief officer, the holder is qualified to perform in Ontario having regard to the qualifications prescribed by the regulations for applicants for certificates of qualification.

Idem

3.—(1) Clause 37 (b) of the said Act is amended by striking out “and provisional certificates of qualification” in the second and third lines.

(2) Clause 37 (f) of the said Act is repealed and the following substituted therefor:

- (f) providing for the issue, renewal and reinstatement of certificates of qualification.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Operating Engineers Amendment Act, 1986*.

Bill 75

An Act to amend the Education Act

The Hon. S. Conway

Minister of Education

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill provides for governance of French-language instruction where English is the language of the majority, and for governance of English-language instruction where French is the language of the majority.

Sections 1 to 8 of the Bill relate to advisory committees. Section 9 adds new Parts XI-A and XI-B and section 10 adds a complementary amendment.

SECTION 1. The definitions of "board" and "French-speaking person" are revised.

SECTION 2. Section 259 of the Act is revised to add the definition of "board" and to change the reference from "public" to "elementary".

SECTION 3. The definitions of "board", "French-speaking person" and "ratepayer" are revised.

SECTION 4. The criteria for the establishment of a French-language advisory committee are revised.

SECTION 5. The rights of the chairman of an advisory committee are widened in relation to the board. Members of an advisory committee are required to make a declaration of office similar to that of a member of a board.

SECTION 6. The criteria for an English-language advisory committee are revised.

SECTION 7. The amendments to section 274 of the Act are complementary to the other amendments to Part XI.

SECTION 8. This section requires the establishment of new advisory committees within two months after the section comes into force.

SECTION 9. This section adds new Part XI-A to the Act. Part XI-A provides for the election of French-language sections of boards and corresponding English-language sections, beginning at the regular election in 1988.

Section 9 also adds new Part XI-B to the Act. Part XI-B provides for French-language education councils and corresponding English-language education councils that are to hold office until the regular election in 1988.

SECTION 10. This section makes a complementary amendment to section 19 of the *Municipal Elections Act*.

SECTION 11. This section repeals new Part XI-B on the 1st day of December, 1988.

Bill 75

1986

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 258 (1) (a) and (c) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 60, section 17, are repealed and the following substituted therefor:

- (a) "board" means a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*, a county or district combined Roman Catholic separate school board, the Metropolitan Separate School Board or The Windsor Roman Catholic Separate School Board;

R.S.O. 1980,
c. 308

- (c) "French-speaking person" means a child of a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

2. Section 259 of the said Act is repealed and the following substituted therefor:

259.—(1) In this section, "board" means a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*, a county or district combined Roman Catholic separate school board, the Metropolitan Separate School Board or The Windsor Roman Catholic Separate School Board.

Definition

R.S.O. 1980,
c. 308

Duties and responsibilities of advisory committee in elementary schools

(2) Where a board has established a French-language advisory committee under section 262, or an English-language advisory committee under section 272, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the elementary schools operated by the board as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes.

3.—(1) Clause 260 (a) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 18, is repealed and the following substituted therefor:

- (a) “board” means a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*, a county or district combined Roman Catholic separate school board, the Metropolitan Separate School Board or The Windsor Roman Catholic Separate School Board.

R.S.O. 1980,
c. 308

(2) Clause 260 (ca) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 60, section 18, is repealed and the following substituted therefor:

- (ca) “French-speaking person” means a child of a person who is entitled under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(3) Clause 260 (d) of the said Act is repealed and the following substituted therefor:

- (d) “French-speaking ratepayer” means a person who is entitled to vote at an election of members of the board and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

4. Subsections 262 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) A board by resolution shall establish a French-language advisory committee and provide for the holding of elections of members of the committee if, French-language advisory committee

- (a) the board does not operate a French-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board, but this clause does not apply until the 1st day of December, 1988; and
- (d) ten or more ratepayers, each of whom has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario, apply in writing to the board for the establishment of the French-language advisory committee.

(2) The board shall pass the resolution and the elections shall be held within two months after receiving the application. Resolution

(2a) The committee shall consist of, Composition of committee

- (a) not more than three persons appointed by the board from among the members of the board; and
- (b) six persons, who are not members of the board, elected to the committee.

(2b) A person is qualified to be appointed or elected to the committee if, Qualifications

- (a) the person is qualified to be elected to the board; and
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the

Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

Definitions

(3) In this section, "calculated enrolment", "resident pupil" and "total calculated enrolment" have the same meanings as in Part XI-A.

5. Section 268 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 20, is further amended by renumbering subsection (1) as subsection (1c) and by adding thereto the following subsections:

Attendance
of committee
chairman at
board
meetings

(1) The chairman of the committee has the right,

- (a) to attend meetings of the board in the same manner as a member of the board; and
- (b) to participate in the discussion at a meeting of the board in respect of any matter that is within the jurisdiction of the committee under subsection 267 (1).

Presentation
of
recommen-
dations

(1a) The chairman of the committee has the right to present recommendations of the committee to the board and to speak to the recommendations.

Designation
of member
by chairman

(1b) The chairman of the committee may designate a member of the committee to act in the place of the chairman at any meeting of the board.

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Confiden-
tiality

(1d) The chairman of the committee or a member of the committee designated by the chairman of the committee to attend a meeting of the committee of the whole board is subject to the same rule of confidentiality that applies to members of the board.

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Declaration

(5) Every person elected to a committee, on or before the day of the first meeting of the committee that he or she attends, shall make and subscribe a declaration in the same form with necessary modifications as subsections 185 (1) and (2) require of a person elected to a board and, for the purpose,

- (a) a reference to a person elected to a board shall be deemed to be a reference to a person elected to a committee;
- (b) a reference to a person elected to fill a vacancy on a board shall be deemed to be a reference to a person elected to fill a vacancy on a committee;
- (c) a reference to a meeting shall be deemed to be a reference to a meeting of the committee or, if the person is a member of the committee designated by the chairman to attend a meeting of the board, a meeting of the committee or of the board;
- (d) a reference to the office of trustee shall be deemed to be a reference to the office of member of the committee.

(6) A member of a committee who fails to comply with subsection (5) shall be deemed to have resigned from the committee. Resignation

(7) A member of a committee shall file his or her declaration with the secretary of the board within eight days after making and subscribing the declaration. Filing

6. Subsection 272 (2) of the said Act is repealed and the following substituted therefor:

(2) A board by resolution shall establish an English-language advisory committee and provide for the holding of elections of members of the committee if, English-language advisory committee

- (a) the board does not operate an English-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and

- (d) ten or more ratepayers apply in writing to the board for the establishment of the English-language advisory committee.

Application
of ss. 260
to 273

(3) Sections 260 to 273 apply with necessary modifications in respect of English-language advisory committees.

Definitions

(4) In this section, "calculated enrolment", "resident pupil" and "total calculated enrolment" have the same meanings as in Part XI-A.

7.—(1) Section 274 of the said Act is amended by striking out "In this Part" in the first line and inserting in lieu thereof "In this section and in sections 275 to 277b".

(2) Clause 274 (b) of the said Act is amended by adding at the end thereof "and includes a French-language education council and an English-language education council under Part XI-B".

Transition

8.—(1) Within two months after the date on which this section comes into force, every board that has a French-language advisory committee or an English-language advisory committee under Part XI of the *Education Act* and that is not required to establish a French-language education council or an English-language education council under Part XI-B shall establish by resolution a new French-language advisory committee or a new English-language advisory committee, as the case requires, in accordance with the *Education Act*, as amended by this Act, and when the new committee takes office, the previous committee is dissolved.

Definitions

(2) In subsection (1),

"board" has the same meaning as in Part XI-A of the *Education Act*, as enacted by section 9 of this Act;

"Part XI-B" means Part XI-B of the *Education Act*, as enacted by section 9 of this Act.

9. The said Act is amended by adding thereto the following Parts:

PART XI-A

GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

Definitions

277c. In this Part,

“board” means a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*, a county or district combined Roman Catholic separate school board, the Metropolitan Separate School Board or The Windsor Roman Catholic Separate School Board;

R.S.O. 1980,
c. 308

“calculated enrolment”, in relation to resident pupils of a board, means the number of French-language resident pupils or the number of resident pupils other than French-language resident pupils, as the case requires, calculated by the Ministry under this Part;

“estimated revenues” means revenues from all sources receivable by a board as set out in the estimates prepared and adopted by the board;

“French-language”, in relation to a resident pupil, means a resident pupil enrolled in a French-language instructional unit;

“French-language instructional unit” means a class, group of classes or school under Part XI in which French is the language of instruction;

“regular election” has the same meaning as in the *Municipal Elections Act*;

R.S.O. 1980,
c. 308

“resident pupil”, in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who,

(a) is qualified to be a resident pupil of the board and is enrolled in a school,

(i) operated by the board, or

(ii) operated by another board to which the first-mentioned board pays fees in respect of the pupil, or

(b) is not qualified by residence to be a resident pupil of a board but is enrolled in a school operated by the board,

(i) pursuant to section 45, or

(ii) where fees are required to be paid by or on behalf of the pupil by or under this Act other

than by another board, notwithstanding that the payment of all or a part of the fees is waived by the board that operates the school at which the pupil is enrolled;

“total calculated enrolment”, in relation to resident pupils of a board, means the total number of resident pupils of the board calculated by the Ministry under this Part.

French-
language
section

277d.—(1) Every board that operates a French-language instructional unit shall have a French-language section of the board.

300 resident
pupils

(2) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

10 per cent
enrolment

(3) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

Minority

(4) Subsections (1) to (3) apply only if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Application
of subss.
(1) to (3)

(5) Subsections (1) to (3) apply only in respect of boards elected in and after the regular election in the year 1988.

Authority
of French-
language
section

277e. The French-language section of a board shall govern for the board the French-language instructional units operated by the board.

Number of
members of
French-
language
section

277f.—(1) The number of members of the French-language section of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language section shall bear the same ratio to the total number of members of the board that the calculated enrolment of resident pupils of the board enrolled in French-language instructional units operated by the

board bears to the total calculated enrolment of resident pupils of the board.

2. The total number of members of the board shall not be increased by the creation of the French-language section; the number of other members of the board shall be decreased by a number of members equal to the number of members of the French-language section.
3. If the number of members of the French-language section determined according to rule 1 is less than three, the French-language section shall be composed of three members.
4. If rule 3 applies to determine the number of members of the French-language section, the total number of members of the board shall be increased by the number of members equal to the difference between three members and the number of members of the French-language section determined according to rule 1.
5. The number of members of the French-language section determined according to rules 1 to 4 shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

(2) Where the areas to be represented by members of a board are fixed by or under this or any other Act or by or under a regulation under this or any other Act, the Minister, after considering the recommendations if any of the board, by order may prescribe the areas or the method of determining the areas to be represented by the members of the French-language section of the board and may make any change in the areas to be represented by one or more of the remaining members of the board that the Minister considers necessary in the circumstances.

Order by
Minister

277g. A person is qualified to be elected as a member of the French-language section of a board if,

Qualifications of
members of
French-
language
section

- (a) the person is qualified to be elected as a member of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and sec-

ondary school instruction in the French language in Ontario; and

- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

Elector

277h.—(1) A person is qualified to be an elector in respect of a member of the French-language section of a board if,

- (a) the person is qualified to vote in a regular election of members of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and
- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

Idem

(2) No person is entitled to vote in a regular election for both members of the French-language section of a board and other members of the board.

Election

277i.—(1) The members of the French-language section of a board shall be elected by a general vote of the persons qualified to vote for members of the French-language section of the board.

Time and
manner of
election

(2) The election of members of the French-language section of a board shall be held at the same time and in the same manner as the election of the other members of the board.

Vacancy

277j.—(1) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section constitute a majority of the members elected to the section, the remaining members of the section shall, at the first regular meeting of the section after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the section.

Idem

(2) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section do not constitute a majority of the members elected to

the section, a new election shall be held to fill the vacancy or vacancies.

(3) A member of the French-language section of a board appointed under subsection (1) or elected under subsection (2) shall hold office for the remainder of the term of office of the membership of the board. Idem

277k.—(1) The following matters are within the exclusive jurisdiction of the French-language section of a board: Jurisdiction

1. The planning and establishment of French-language instructional units, including the preparation and submission of capital expenditure forecasts in respect of such units to the board for submission to the Ministry.
2. The administration and the closing of French-language instructional units.
3. The planning, establishment, implementation and maintenance of programs, other than the provision of religious education and religious exercises, for pupils enrolled in a French-language instructional unit or in an evening class where French is the language of instruction.
4. The recruitment and assignment of teachers and administrative and supervisory personnel for French-language instructional units.
5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils) or 165a (adult basic education) in respect of pupils in French-language instructional units.

(2) The following matters are outside the jurisdiction of the French-language section of a board: Excluded matters

1. The planning and establishment of schools that are not French-language instructional units, including the preparation and submission of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.
2. The administration and the closing of schools that are not French-language instructional units.

3. The planning, establishment, implementation and maintenance of programs, other than the provision of religious education and religious exercises, for pupils enrolled in a school or class that is not French-language instruction units or in an evening class where French is not the language of instruction.
4. The recruitment and assignment of teachers and administrative and supervisory personnel for schools, classes and evening classes mentioned in paragraph 3.
5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in a school or class that is not under Part XI.

Common
jurisdiction

(3) In respect of all other matters, a member of the French-language section of a board has the same powers, duties, rights and responsibilities as a member of the board who is not a member of the French-language section.

Change of
jurisdiction

(4) If a majority of the members of the French-language section of a board and a majority of the other members of the board each resolve,

- (a) that a matter within the exclusive jurisdiction of the French-language section of the board shall be outside the jurisdiction of that section; or
- (b) that a matter outside the jurisdiction of the French-language section of the board shall be within the exclusive jurisdiction of that section,

subsections (1) and (2) shall be deemed to be modified accordingly in respect of the board, and the secretary of the board shall transmit to the Minister notice of the change of jurisdiction.

Application

2771.—(1) This section applies to every board that has a French-language section under this Part.

Idem

(2) This section applies in respect of the year 1989 and every subsequent year.

(3) After the estimates of the board in respect of a year are approved or adopted, as the case requires, the board shall allocate the amounts of its estimated revenues for the year as follows:

Allocation
of estimated
revenues

1. Firstly, to the specific educational programs or specific schools or classes that generated a portion of the estimated revenues, in amounts equal to the amounts generated.
2. Secondly, to the centralized services of the board, in amounts equal to the amounts set out for the centralized services in the estimates.
3. Thirdly, to all the schools and classes operated by the board.

(4) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the schools and classes that are French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Schools
and
classes

(5) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the balance of the schools and classes that are not French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Balance
of schools
and classes

(6) In this section, "centralized services" means,

Definition

- (a) salaries, benefits and professional development of employees other than employees whose recruitment and assignment is specified in this Part as either within or outside the exclusive jurisdiction of the French-language section of the board;
- (b) normal maintenance of and operational services and equipment required for school sites;
- (c) school supplies other than instructional and learning materials;
- (d) transportation of pupils to and from school and from school to school;
- (e) allocation to reserve funds and the reserve for working funds;

- (f) establishment and maintenance of the head office of the board, including services operated therefrom;
- (g) permanent improvements other than the replacement for schools and classes of furniture, furnishings, library books and instructional equipment and apparatus; and
- (h) expenditures that are not within clauses (a) to (g) but that are approved from time to time by the board.

Duty of
board

277m.—(1) Every board shall ensure that the matters that are within the exclusive jurisdiction and the matters that are outside the jurisdiction of the French-language section of the board are properly provided for when the board prepares and adopts its estimates and when the board allocates its estimated revenues.

Variation

(2) Subject to subsection (1), a board may vary an allocation in order to accommodate a change in circumstances or assumptions upon which the estimates of the board were made.

Annual
filing by
boards

277n.—(1) Every board shall file annually with the Ministry a report in the prescribed form in respect of the enrolment of resident pupils of the board in schools and classes operated as French-language instructional units and in respect of the enrolment of resident pupils of the board in schools and classes not operated as French-language instructional units.

Counting
date

(2) Every board shall compile the data mentioned in subsection (1) as of the 30th day of September in each year, commencing as of the 30th day of September, 1985.

Calculations
by Ministry

277o.—(1) The Ministry shall calculate the calculated enrolment of French-language resident pupils, the calculated enrolment of resident pupils other than French-language resident pupils and the total calculated enrolment of resident pupils of each board.

Idem

(2) From the enrolments calculated under subsection (1), the Ministry shall calculate the number of members to be elected to the French-language section of each board in the next regular election.

Additional
factor in
calculations

(3) In order to allow for statistical inaccuracies, the Ministry shall calculate a calculated enrolment of French-language resident pupils,

(a) that is not less than 9.50 per cent and not more than 10 per cent of the calculated enrolment of resident pupils of a board as 10 per cent of the calculated enrolment of resident pupils of the board; and

(b) that is not less than 285 and not more than 300 resident pupils of the board as 300 resident pupils of the board.

(4) For the purposes of the regular election in the year 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September, 1987.

Election
in 1988

(5) For the purposes of a regular election held after 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September in the year immediately preceding the year in which the regular election is held.

Regular
elections

(6) Where members are to be elected to the French-language section of a board, the Minister, before the 1st day of July in the year in which the election is to be held,

Notice to
boards and
returning
officers

(a) shall notify the board and the Commission of the results of the calculations under subsections (1) and (2);

(b) shall notify the proper returning officer of the number of members to be elected to the French-language section of the board;

(c) shall notify the appropriate assessment commissioners; and

(d) shall give public notice that the board qualifies under this Part to have a French-language section and of the number of members to be elected to the French-language section of the board.

(7) A board or the Commission or a committee may appeal the accuracy of the calculations under subsections (1) and (2) to the Minister by application made not later than the 15th day of July in the year in which the election is to be held.

Application
to Minister

(8) The Minister shall appoint a person to hear and consider the matter and report to the Minister, and the Minister shall make such changes in the calculations as are recommended in the report.

Hearing and
decision

Further
notice

(9) The Minister,

- (a) shall notify the board of any changes in the results of the calculations;
- (b) shall notify the proper returning officer of any change in the number of members to be elected to the French-language section of the board;
- (c) shall notify the appropriate assessment commissioners; and
- (d) shall give public notice of any change in the qualification of the board to have a French-language section or in the number of members of the French-language section of the board,

consequent upon the report to the Minister.

Definitions

(10) In this section, "Commission" and "committee" have the same meanings as in section 274.

Liaison
committee

277p.—(1) Two or more boards, upon the request of the French-language sections of the boards, may establish a liaison committee.

Function

(2) A liaison committee may consider and make recommendations to the French-language section of a board on any matter that the board agrees may be referred to the liaison committee.

Dissolution
of section

277q.—(1) If a board ceases to meet the conditions of this Part under which a board must have a French-language section, the Minister by order may dissolve the French-language section of the board.

Establish-
ment of
committee

(2) If the Minister makes an order under subsection (1), the board shall establish the committee in accordance with Part XI within two months after the date on which the French-language section of the board is dissolved.

English as
language of
instruction

277r.—(1) There shall be an English-language section of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language section of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and,

- (a) the board operates an English-language instructional unit under Part XI;

- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards; or
- (c) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards.

(2) For the purposes of subsection (1),

Interpretation

- (a) a reference in this Part to French, other than in this subsection, shall be deemed to be a reference to English;
- (b) a reference in this Part to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

(3) Subsection 277o (3) applies with necessary modifications for the purposes of subsection (1).

Additional
factor in
calculations

277s.—(1) The Minister may prescribe the form of the report under subsection 277n (1) and require its use for the purposes of this Part.

Forms

(2) An act of the Minister under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

Application
of
R.S.O. 1980,
c. 446

PART XI-B

INTERIM GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

277t. In this Part, “board”, “calculated enrolment”, “French-language”, in relation to a resident pupil, “French-

Definitions

language instructional unit", "resident pupil" and "total calculated enrolment" have the same meanings as in Part XI-A.

French-language
education
council

277u. Every board that operates a French-language instructional unit shall have a French-language education council if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Number of
members of
French-
language
education
council

277v.—(1) The number of members of the French-language education council of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language education council shall bear the same ratio to the total number of members of the board that the calculated enrolment of resident pupils of the board enrolled in French-language instructional units operated by the board under Part XI bears to the total calculated enrolment of resident pupils of the board.
2. The French-language education council shall be composed of those members of the board who are eligible to be members of and who elect in writing to sit as members of the French-language education council.
3. All of the members of the board who are eligible to be and who elect in writing to sit as members of the French-language education council are entitled to do so even if the number of such members is greater than the number of members determined according to rule 1.
4. If the number of eligible members of the board who elect in writing to be members of the French-language education council is less than the number of members determined according to rule 1, the additional membership of the French-language education council shall be made up by members elected in the same manner as members of a committee under Part XI.
5. If the number of members of the French-language education council determined according to rule 1 is less than three, the French-language education council shall be composed of three members.

6. If rule 5 applies to determine the number of members of the French-language education council, the total number of members of the board shall be increased by the number of members equal to the difference between three members and the number of members of the French-language education council determined according to rule 1.

(2) If a board is required to have a French-language education council, every member of the board who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario is eligible to be a member of the French-language education council.

Qualified
members of
board

(3) A person is qualified to be elected as a member of the French-language education council if,

Qualifi-
cations for
election

(a) the person is eligible to be elected as a member of the board; and

(b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(4) For the purpose of rule 1 of subsection (1), the calculated enrolment of resident pupils of the board enrolled in French-language instructional units operated by the board under Part XI and the total calculated enrolment of resident pupils of the board are the numbers determined under Part XI-A as of the 30th day of September, 1985.

Calculated
enrolments

277w.—(1) The French-language education council of a board has exclusive jurisdiction over the same matters as are specified for the French-language section of a board under Part XI-A.

Jurisdiction

(2) The matters that are outside the jurisdiction of the French-language section of a board under Part XI-A are also outside the jurisdiction of the French-language education council of a board.

Excluded
matters

(3) In respect of all other matters, a member of the French-language education council of a board has the same powers, duties, rights and responsibilities as a member of the board

Common
jurisdiction

who is not a member of the French-language education council.

Allocation of
estimated
revenues

277x. Every board that has a French-language education council shall allocate its estimated revenues in the same manner as is specified for a board that has a French-language section under Part XI-A.

English as
language of
instruction

277y.—(1) There shall be an English-language education council of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language education council of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and the board operates an English-language instructional unit under Part XI.

Interpretation

(2) For the purposes of subsection (1),

- (a) a reference in this Part to French, other than in this subsection, shall be deemed to be a reference to English;
- (b) a reference in this Part to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

10.—(1) Section 19 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (f) who is a separate school elector or a public school elector, that the elector has chosen to vote to elect members of the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*.

(2) Subsection 49 (1) of the said Act is amended by adding thereto the following paragraph:

- 6a. Where the election is to the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*, an elector is entitled to as many votes as there are members of the French-language section or the English-language section, as the case may be, of the board but may not give more than one vote to any one candidate. R.S.O. 1980, c. 129

11. Part XI-B, as enacted by section 9 of this Act, is repealed on the 1st day of December, 1988. Repeal

12. This Act comes into force on the day it receives Royal Assent. Commence-
ment

13. The short title of this Act is the *Education Amendment Act, 1986*. Short title

... and ...

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Bill 75



An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act



The Hon. S. Conway
Minister of Education

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

GENERAL. The Bill provides for governance of French-language instruction where English is the language of the majority, and for governance of English-language instruction where French is the language of the majority.

Sections 1 to 10 of the Bill relate to advisory committees. Section 11 adds new Parts XI-A and XI-B to the *Education Act* and section 12 adds a complementary amendment to the *Municipal Elections Act*. Section 13 provides for governance of French-language instruction in Metropolitan Toronto.

SECTIONS 1, 2 and 4. The definitions set out in the present subsection 258 (1) and section 260 are consolidated into one section and revised.

SECTION 3. The reference to public schools becomes a reference to elementary schools.

SECTION 5. The criteria for the establishment of a French-language advisory committee are revised.

SECTION 6. Where the seat of an appointed member of a committee is vacant, it will be filled from among the members of the board.

SECTION 7. The rights of the chairman of an advisory committee are widened in relation to the board. Members of an advisory committee are required to make a declaration of office similar to that of a member of a board.

SECTION 8. The criteria for an English-language advisory committee are revised.

SECTION 9. The amendments to section 274 of the Act are complementary to the other amendments to Part XI.

SECTION 10. This section requires the establishment of new advisory committees within two months after the section comes into force.

SECTION 11. This section adds new Part XI-A to the Act. Part XI-A provides for the election of French-language sections of boards and corresponding English-language sections, beginning at the regular election in 1988.

Section 11 also adds new Part XI-B to the Act. Part XI-B provides for French-language education councils and corresponding English-language education councils that are to hold office until the regular election in 1988.

SECTION 12. This section makes a complementary amendment to section 19 of the *Municipal Elections Act*.

SECTION 13. This section amends the *Municipality of Metropolitan Toronto Act*.

The proposed section 120a requires the establishment of new advisory committees for the boards of education in Metropolitan Toronto. The advisory committees will cease to exist following the regular elections to be held in 1988.

Sections 120b to 120i provide for the establishment of The Metropolitan French-Language School Council which will have responsibility for the governance of French-language instruction beginning on the 1st day of January, 1989. The Council will have all the powers of a board of education and will be represented on The Metropolitan Toronto School Board.

SECTION 14. This section repeals new Part XI-B on the 1st day of December, 1988.

Bill 75

1986

**An Act to amend the Education Act and the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. Part XI of the *Education Act*, being chapter 129 of the
Revised Statutes of Ontario, 1980, as amended by the Statutes
of Ontario, 1982, chapter 32, sections 62 to 67 and 1984, chap-
ter 60, sections 17 to 25, is further amended by adding thereto
the following section:

257a. In this Part,

Definitions

“board” means,

- (a) a board of education the members of which are
elected under the *Municipal Elections Act*,
- (b) a county or district combined separate school
board,
- (c) the Metropolitan Separate School Board, or
- (d) The Windsor Roman Catholic Separate School
Board,

R.S.O. 1980,
c. 308

and includes,

- (e) for the purposes of section 258, a district school
area board, a protestant separate school board, a
rural separate school board and a combined sepa-
rate school board,
- (f) for the purposes of section 261, a secondary school
board and a board of education formed under sec-
tion 69, and

(g) for the purposes of sections 274 to 277b, a board described in clause (e) or (f);

“committee”, except in sections 274 to 277b, means a French-language advisory committee formed under section 262;

“French-language instructional unit” means a class, group of classes or school in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

“French-speaking person” means a child of a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario;

“French-speaking ratepayer” means a person who is entitled to vote at an election of members of the board and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

2. Subsection 258 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 17, is repealed.

3. Section 259 of the said Act is repealed and the following substituted therefor:

Duties and responsibilities of advisory committee in elementary schools

259. Where a board has established a French-language advisory committee under section 262, or an English-language advisory committee under section 272, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the elementary schools operated by the board as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes.

4. Section 260 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 18, is repealed.

5.—(1) Subsections 262 (1), (2) and (3), subsection 262 (3a), as enacted by the Statutes of Ontario, 1982, chapter 32, section 63, subsection 262 (4), as amended by the Statutes of Ontario,

1982, chapter 32, section 63, and subsection 262 (5) of the said Act are repealed and the following substituted therefor:

(1) A board by resolution shall establish a French-language advisory committee and provide for the holding of elections of members of the committee if, French-language advisory committee

- (a) the board does not operate a French-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and
- (d) ten or more French-speaking ratepayers apply in writing to the board for the establishment of the French-language advisory committee.

(1a) In this section, "calculated enrolment", "resident pupil" and "total calculated enrolment" have the same meaning as in Part XI-A. Definitions

(1b) Clause (1) (c) does not apply until the 1st day of December, 1988. Non-application of cl. (1) (c)

(1c) The board shall pass the resolution and the elections shall be held within two months after receiving the application. Resolution

(1d) The committee shall consist of. Composition of committee

- (a) not more than three persons appointed by the board from among the members of the board; and
- (b) six French-speaking ratepayers who are not members of the board but have the qualifications to be elected to the board, elected by French-speaking ratepayers.

- Qualifications** (1e) A person is qualified to be appointed or elected to the committee if the person is a French-speaking ratepayer and is qualified to be elected to the board.
- Disqualification** (1f) A person who ceases to be qualified to be elected to a board is not qualified to act as a member of a committee.
- Committee of less than nine members** (2) A committee may meet and conduct business notwithstanding that fewer than three persons are appointed to it under clause (1d) (a) or that fewer than six persons are elected to it under clause (1d) (b).
- Application of s. 206** (3) Section 206 applies with necessary modifications to a member of a committee under clause (1d) (b).
- Term of office** (4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized and a successor is appointed or elected, as the case may be.
- Apportionment of members** (5) The board, subject to subsections (8) and (9), shall apportion the number of members under clause (1d) (b) among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking persons who elect to receive their education in a French-language instructional unit from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.
- (2) Section 262 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 63, is further amended by adding thereto the following subsections:
- Idem** (9) Where a board has a committee that was established before the coming into force of this section and the board is required to establish a new committee under subsection (2), the board, for the purpose of making the first apportionments under subsection (5) for the new committee, shall consult with the existing committee before making the apportionment.
- Dissolution** (10) A committee is dissolved on the 1st day of December in a year, if no resident pupil of the board has received instruction in a French-language instructional unit operated by another board at some time in October or November of that year pursuant to an agreement described in clause (1) (b).

6. Subsection 266 (1) of the said Act is amended by inserting after "board" in the second line "from among the members of the board".

7. Section 268 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 20, is further amended by renumbering subsection (1) as subsection (1c) and by adding thereto the following subsections:

(1) The chairman of the committee has the right,

Attendance
of committee
chairman at
board
meetings

(a) to attend meetings of the board in the same manner as a member of the board; and

(b) to participate in the discussion at a meeting of the board in respect of any matter that is within the jurisdiction of the committee under subsection 267 (1).

(1a) The chairman of the committee has the right to present recommendations of the committee to the board and to speak to the recommendations.

Presentation
of
recommen-
dations

(1b) The chairman of the committee may designate a member of the committee to act in the place of the chairman at any meeting of the board.

Designation
of member
by chairman

(1d) The chairman of the committee or a member of the committee designated by the chairman of the committee to attend a meeting of the committee of the whole board is subject to the same rule of confidentiality that applies to members of the board.

Confiden-
tiality

(5) Every person elected to a committee, on or before the day of the first meeting of the committee that he or she attends, shall make and subscribe a declaration in the same form with necessary modifications as subsections 185 (1) and (2) require of a person elected to a board and, for the purpose,

Declaration

(a) a reference to a person elected to a board shall be deemed to be a reference to a person elected to a committee;

- (b) a reference to a person elected to fill a vacancy on a board shall be deemed to be a reference to a person elected to fill a vacancy on a committee;
- (c) a reference to a meeting shall be deemed to be a reference to a meeting of the committee or, if the person is a member of the committee designated by the chairman to attend a meeting of the board, a meeting of the committee or of the board; and
- (d) a reference to the office of trustee shall be deemed to be a reference to the office of member of the committee.

Resignation

(6) A member of a committee who fails to comply with subsection (5) shall be deemed to have resigned from the committee.

Filing

(7) A member of a committee shall file his or her declaration with the secretary of the board within eight days after making and subscribing the declaration.

8. Subsection 272 (2) of the said Act is repealed and the following substituted therefor:

English-language advisory committee

(2) A board by resolution shall establish an English-language advisory committee and provide for the holding of elections of members of the committee if,

- (a) the board does not operate an English-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and
- (d) ten or more ratepayers apply in writing to the board for the establishment of the English-language advisory committee.

(3) Sections 260 to 273 apply with necessary modifications in respect of English-language advisory committees.

Application
of ss. 260
to 273

(4) In this section, “calculated enrolment”, “resident pupil” and “total calculated enrolment” have the same meanings as in Part XI-A.

Definitions

(5) Clause (2) (c) does not apply until the 1st day of December, 1988.

Non-appli-
cation of
clause (2) (c)

9.—(1) Section 274 of the said Act is amended by striking out “In this Part” in the first line and inserting in lieu thereof “In this section and in sections 275 to 277b”.

(2) Clause 274 (b) of the said Act is amended by adding at the end thereof “and includes a French-language education council and an English-language education council under Part XI-B”.

10.—(1) Within two months after the date on which this section comes into force, every board that has a French-language advisory committee or an English-language advisory committee under Part XI of the *Education Act* and that is not required to establish a French-language education council or an English-language education council under Part XI-B shall establish by resolution a new French-language advisory committee or a new English-language advisory committee, as the case requires, in accordance with the *Education Act*, as amended by this Act, and when the new committee takes office, the previous committee is dissolved.

Transition

(2) In subsection (1),

Definitions

“board” has the same meaning as in Part XI-A of the *Education Act*, as enacted by section 11 of this Act;

“Part XI-B” means Part XI-B of the *Education Act*, as enacted by section 11 of this Act.

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board for the establishment of the new French-language advisory committee.

Deemed
application

11. The said Act is amended by adding thereto the following Parts:

PART XI-A

GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

Definitions

277c. In this Part,

“board” means,

- (a) a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*,
- (b) a county or district combined separate school board,
- (c) the Metropolitan Separate School Board, or
- (d) The Windsor Roman Catholic Separate School Board;

R.S.O. 1980,
c. 308

“calculated enrolment”, in relation to resident pupils of a board, means the number of French-language resident pupils or the number of resident pupils other than French-language resident pupils, as the case requires, calculated by the Ministry under this Part;

“estimated revenues” means revenues from all sources receivable by a board as set out in the estimates prepared and adopted by the board;

“French-language”, in relation to a resident pupil, means a resident pupil enrolled in a French-language instructional unit;

“French-language instructional unit” means a class, group of classes or school under Part XI in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

R.S.O. 1980,
c. 308

“regular election” has the same meaning as in the *Municipal Elections Act*;

“resident pupil”, in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who,

- (a) is qualified to be a resident pupil of the board and is enrolled in a school,

- (i) operated by the board, or
 - (ii) operated by another board to which the first-mentioned board pays fees in respect of the pupil, or
- (b) is not qualified by residence to be a resident pupil of a board but is enrolled in a school operated by the board,

- (i) pursuant to section 45, or
- (ii) where fees are required to be paid by or on behalf of the pupil by or under this Act other than by another board, notwithstanding that the payment of all or a part of the fees is waived by the board that operates the school at which the pupil is enrolled;

“total calculated enrolment”, in relation to resident pupils of a board, means the total number of resident pupils of the board calculated by the Ministry under this Part.

277d.—(1) Every board that operates a French-language instructional unit shall have a French-language section of the board.

French-language section

(2) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

300 resident pupils

(3) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

10 per cent enrolment

(4) Subsections (1) to (3) apply only if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Minority

(5) Subsections (1) to (3) apply only in respect of boards elected in and after the regular election in the year 1988.

Application of subss. (1) to (3)

Exception

↓
(6) Notwithstanding any other provision of this Part, a French-language section of a board shall not be established if on the first day of the school year in which a regular election is to be held, the board is not operating a French-language instructional unit and it is not providing education for at least 285 of its resident pupils or at least 9.50 per cent of its resident pupils pursuant to an agreement as described in subsection (2) or (3).

Authority of French-language section

277e. The French-language section of a board shall govern for the board the French-language instructional units of the board. ↑

Number of members of French-language section

277f. The number of members of the French-language section of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

- ↓
1. The number of members of the French-language section shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board.
 2. In rules 1 and 3, the "total number of elected members of the board" means the total number of members as determined under section 57 or 58 or subsection 59 (2), without regard to subsection 59 (4), (5) or (6), or subsection 113 (2), without regard to subsection 113 (4), or subsection 116 (2) or as determined by or under another Act, as may be appropriate.
 3. The total number of elected members of the board shall not be increased by the creation of the French-language section; the number of other members of the board shall be decreased by a number of members equal to the number of members of the French-language section. ↑
 4. If the number of members of the French-language section determined according to rule 1 is less than three, the French-language section shall be composed of three members.
 5. If rule 4 applies to determine the number of members of the French-language section, the total number of members of the board shall be increased by the number of members equal to the difference

between three members and the number of members of the French-language section determined according to rule 1.

6. The number of members of the French-language section determined according to rules 1 to 5 shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

277g. A person is qualified to be elected as a member of the French-language section of a board if,

Qualifications of members of French-language section

- (a) the person is qualified to be elected as a member of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and
- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

277h.—(1) A person is qualified to be an elector in respect of a member of the French-language section of a board if,

Elector

- (a) the person is qualified to vote in a regular election of members of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and
- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

(2) No person is entitled to vote in a regular election for both members of the French-language section of a board and other members of the board.

Idem

277i.—(1) The members of the French-language section of a board shall be elected in accordance with this section by

Election

the persons qualified to vote for members of the French-language section of the board.

General vote (2) Subject to subsections (3) to (7), the members of the French-language section of a board shall be elected by general vote.

Vote by electoral areas (3) For the purposes of electing the members of the French-language section of a board at the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, where a board has a French-language advisory committee or a French-language education council, the committee or the council, as the case may be, may divide the area of jurisdiction of the board into electoral areas and determine the representation for each electoral area.

Idem (4) For a regular election to be held in 1991, or thereafter, where a board has a French-language section, the section may divide the area of jurisdiction of the board into electoral areas for the purposes of electing the members of the next section and for filling vacancies therein and determine the representation for each electoral area.

Public meeting (5) Before passing a resolution under subsection (3) or (4), the French-language advisory committee, French-language education council or French-language section of a board, as the case may be, shall hold at least one public meeting at which French-speaking ratepayers shall be given an opportunity to make representations on the proposed electoral areas.

Final determination (6) Following the public meeting or meetings held under subsection (5), the electoral areas may be fixed as originally proposed or with such amendments as the committee, council or section of a board, as the case may be, considers appropriate and without holding any further public meetings.

Idem (7) Where electoral areas have been established for an election, the members of the French-language section shall be elected by general vote in each electoral area.

Idem (8) A resolution to establish electoral areas is of no effect unless it is passed before the 1st day of August in the year of the regular election to which it relates and unless before that date a certified copy of the resolution is delivered to the clerks of the municipalities responsible for conducting the nominations of the other members of the board.

Boundaries (9) The clerk of a municipality shall adjust a boundary of an electoral area so as to prevent the division of polling subdivisions established for the election.

(10) The election of members of a French-language section of a board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. Election officers

(11) Where the area of jurisdiction of a board includes more than one municipality or includes territory without municipal organization, the nominations of the members of the French-language section of the board shall be conducted by the same municipal clerk as conducts the nominations for the other members of the board and the clerks of the municipalities shall perform the same function as returning officers as they do with respect to the election of the other members of the board. Idem

(12) For the purpose of performing the function of returning officer, the secretary of the board shall be the clerk of each part of territory without municipal organization in the area of jurisdiction of the board that is deemed to be a district municipality for school purposes. Idem

(13) A clerk described in subsection (8) shall provide to the clerks of the other municipalities, if any, in the area of jurisdiction of the board such information as is required by them to conduct the election of the members of the French-language section of the board. Information

277j. Sections 183 and 184, except subsection 184 (11), apply with necessary modifications to a French-language section of a board. Meetings, etc.

277k.—(1) Where a board is required to have a French-language section and the areas to be represented by members of the board are fixed by or under this or any other Act, the Minister, after considering the recommendations, if any, of the board, may by order, Areas of representation

(a) change the areas to be represented by one or more members of the board who are not members of the French-language section; and

(b) prescribe a different method of determining the areas to be represented by one or more members of the board who are not members of the French-language section.

(2) A member of a French-language education council or a French-language section of a board shall not vote on any recommendations that the board proposes to make under subsection (1). Limitation

Vacancy

277-1.—(1) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section constitute a majority of the members elected to the section, the remaining members of the section shall, at the first regular meeting of the section after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the section.

Idem


(2) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section do not constitute a majority of the members elected to the section, a new election shall be held to fill the vacancy or vacancies.

Idem

(3) A member of the French-language section of a board appointed under subsection (1) or elected under subsection (2) shall hold office for the remainder of the term of office of the membership of the board.

Jurisdiction

277m.—(1) The following matters are within the exclusive jurisdiction of the French-language section of a board:

1. The planning and establishment of French-language instructional units, including the preparation and submission of capital expenditure forecasts in respect of such units to the board for submission to the Ministry.
 2. The administration and the closing of French-language instructional units.
 - ➡ 3. Admissions committees under subsection 258 (6a) and section 273.
 4. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a French-language instructional unit.
 5. The recruitment and assignment of teachers and administrative and supervisory personnel for French-language instructional units.
 6. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in French-language instructional units.
- 

(2) The following matters are outside the jurisdiction of the French-language section of a board and its members: Excluded matters

1. The planning and establishment of schools that are not French-language instructional units, including the preparation and submission of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.
2. The administration and the closing of schools that are not French-language instructional units.
3. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a school or class that is not a French-language instructional unit.
4. The recruitment and assignment of teachers and administrative and supervisory personnel for schools and classes mentioned in paragraph 3.
5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in a school or class that is not under Part XI.

(3) In respect of any matter not referred to in subsection (1) or (2), including the employment of the director of education, a member of the French-language section of a board has the same powers, duties, rights and responsibilities as a member of the board who is not a member of the French-language section. Common jurisdiction

(4) The following rules apply with respect to quorums where a board has a French-language section: Quorum

1. The presence of a majority of all the members constituting the board is necessary to form a quorum when dealing with a matter that is not a matter to which paragraph 2 or 3 applies.
2. The presence of a majority of all the members of a French-language section of a board is necessary to form a quorum when dealing with matters within the exclusive jurisdiction of the French-language section of the board.

3. The presence of a majority of all members of a board who are not members of the French-language section of the board is necessary to form a quorum when dealing with matters outside the jurisdiction of the French-language section of the board.
4. Where the board is a board of education and the board, other than the French-language section, is composed, in part, of members who are elected by separate school electors, for the purposes of paragraph 3, when dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board by the public school electors is necessary to form a quorum.
5. Subsection 184 (11) does not apply.

Change of
jurisdiction

(5) If a majority of the members of the French-language section of a board and a majority of the other members of the board each resolve that a matter that is a centralized service, as defined in subsection 277n (6), shall be within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members, subsections (1) and (2) shall be deemed to be modified accordingly in respect of the board, and the secretary of the board shall transmit to the Minister notice of the change of jurisdiction.

Reversion of
jurisdiction

(6) A resolution passed under subsection (5) shall cease to have effect at the end of the term of the members in office when the resolution was passed unless a majority of the members of the French-language section of the board and a majority of the other members of the board resolve that it shall cease to have effect at an earlier date. ▲

Application

277n.—(1) This section applies to every board that has a French-language section under this Part.

Idem

(2) This section applies in respect of the year 1989 and every subsequent year.

Allocation
of estimated
revenues

(3) After the estimates of the board in respect of a year are approved or adopted, as the case requires, the board shall allocate the amounts of its estimated revenues for the year as follows:

1. Firstly, to the specific educational programs or specific schools or classes that generated a portion of the estimated revenues, in amounts equal to the amounts generated.

2. Secondly, to the centralized services of the board, in amounts equal to the amounts set out for the centralized services in the estimates.
3. Thirdly, to all the schools and classes operated by the board.

(4) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the schools and classes that are French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Schools
and
classes

(5) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the balance of the schools and classes that are not French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Balance
of schools
and classes

(6) In this section, "centralized services" means,

Definition

- (a) salaries, benefits and professional development of employees but excluding employees whose recruitment and assignment is specified in this Part as either within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members;
- (b) normal maintenance of and operational services and equipment required for school sites;
- (c) school supplies other than instructional and learning materials;
- (d) transportation of pupils to and from school and from school to school;
- (e) allocation to reserve funds and the reserve for working funds;
- (f) establishment and maintenance of the head office of the board, including services operated therefrom;
- (g) permanent improvements other than the replacement for schools and classes of furniture, furnishings, library books and instructional equipment and apparatus; and

- (h) expenditures that are not within clauses (a) to (g) but that are approved from time to time by the board.

Duty of
board

277o.—(1) Every board shall ensure that the matters that are within the exclusive jurisdiction and the matters that are outside the jurisdiction of the French-language section of the board are provided for when the board prepares and adopts its estimates and when the board allocates its estimated revenues.

Variation

(2) Subject to subsection (1), a board may vary an allocation in order to accommodate a change in circumstances or assumptions upon which the estimates of the board were made.

Annual
filing by
boards

277p.—(1) Every board shall file annually with the Ministry a report in the prescribed form in respect of the enrolment of resident pupils of the board in schools and classes operated as French-language instructional units and in respect of the enrolment of resident pupils of the board in schools and classes not operated as French-language instructional units.

Counting
date

(2) Every board shall compile the data mentioned in subsection (1) as of the 30th day of September in each year, commencing as of the 30th day of September, 1986.

Calculations
by Ministry

277q.—(1) The Ministry shall calculate the calculated enrolment of French-language resident pupils, the calculated enrolment of resident pupils other than French-language resident pupils and the total calculated enrolment of resident pupils of each board.

Idem

(2) From the enrolments calculated under subsection (1), the Ministry shall calculate the number of members to be elected to the French-language section of each board in the next regular election.

Additional
factor in
calculations

(3) In order to allow for statistical inaccuracies, the Ministry shall calculate a calculated enrolment of French-language resident pupils,

- (a) that is not less than 9.50 per cent and not more than 10 per cent of the calculated enrolment of resident pupils of a board as 10 per cent of the calculated enrolment of resident pupils of the board; and
- (b) that is not less than 285 and not more than 300 resident pupils of the board as 300 resident pupils of the board.

(4) For the purposes of the regular election in the year 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September, 1987.

Election
in 1988

(5) For the purposes of a regular election held after 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September in the year immediately preceding the year in which the regular election is held.

Regular
elections

(6) Where members are to be elected to the French-language section of a board, the Minister, before the 1st day of July in the year in which the election is to be held,

Notice to
boards and
returning
officers

(a) shall notify the board and the Commission of the results of the calculations under subsections (1) and (2);

(b) shall notify the proper returning officer of the number of members to be elected to the French-language section of the board;

(c) shall notify the appropriate assessment commissioners; and

(d) shall give public notice that the board qualifies under this Part to have a French-language section and of the number of members to be elected to the French-language section of the board.

(7) A board or the Commission or a committee may appeal the accuracy of the calculations under subsections (1) and (2) to the Minister by application made not later than the 15th day of July in the year in which the election is to be held.

Application
to Minister

(8) The Minister shall appoint a person to hear and consider the matter and report to the Minister, and the Minister shall make such changes in the calculations as are recommended in the report.

Hearing and
decision

(9) The Minister,

Further
notice

(a) shall notify the board of any changes in the results of the calculations;

(b) shall notify the proper returning officer of any change in the number of members to be elected to the French-language section of the board;

- (c) shall notify the appropriate assessment commissioners; and
- (d) shall give public notice of any change in the qualification of the board to have a French-language section or in the number of members of the French-language section of the board,

consequent upon the report to the Minister.

Definitions

(10) In this section, "Commission" and "committee" have the same meanings as in section 274.

Liaison
committee

277r.—(1) Any two or more committees established by boards under Part XI or French-language sections of boards, or any combination of such committees and French-language sections, may establish a liaison committee which shall be known as a regional committee for French-language education.

Function

(2) A regional committee for French-language education may consider and make recommendations to the French-language section of a board or to the committee established by a board under Part XI on any matter that affects French-language education.

Notice to
Minister

277s.—(1) If before the 30th day of June in any year the French-language section becomes aware that on the first day of the following school year it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify, in writing, the full board of such fact and the board shall forthwith notify, in writing, the Minister.


Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the 1st day of December next following the time at which the notice was required to be given and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board may revoke a notice given under subsection (1) at any time before the dissolution of the French-language section of the board if after the 1st day of September in the year in which the notice was given, the board has any French-language instructional units or it provides education to resi-

dent pupils as described in subsection (1) and the revocation shall be by notice, in writing, delivered to the Minister.

(4) Where a French-language section of a board is dissolved, at least ten French-speaking ratepayers, within the meaning of Part XI of the Act, shall be deemed to have applied to the board on the day of the dissolution for the establishment of a French-language advisory committee. 

Deemed
application

277t.—(1) There shall be an English-language section of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language section of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and,

English as
language of
instruction

- (a) the board operates an English-language instructional unit under Part XI;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards; or
- (c) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards.



(2) For the purposes of subsection (1),

Interpretation

- (a) a reference in this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part, other than in subsection (3), to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part, other than in subsection (3), to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a

person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

French as majority

(3) Where a board has an English-language section, the other members of the board must have the qualifications to be elected as a member of a French-language section of a board as described in section 277g and an elector of such other members must have the qualifications to be an elector in respect of a French-language section of a board as described in section 277h. ▲

Forms

277u.—(1) The Minister may prescribe the form of the report under subsection 277p (1) and require its use for the purposes of this Part.

Application of
R.S.O. 1980,
c. 446

(2) An act of the Minister under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

PART XI-B

INTERIM GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

Definitions

277v. In this Part, “board”, “calculated enrolment”, “French-language”, in relation to a resident pupil, “French-language instructional unit”, “resident pupil” and “total calculated enrolment” have the same meanings as in Part XI-A.

French-language education council

277w.—(1) Every board that on the first school day in September, 1986, operates a French-language instructional unit shall have a French-language education council if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Authority of council

(2) The French-language education council of a board shall govern for the board the French-language instructional units of the board. ▲

Number of members of French-language education council

277x.—(1) The number of members of the French-language education council of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language education council shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board. ▲

2. The French-language education council shall be composed of those members of the board who are eligible to be members of and who elect in writing to sit as members of the French-language education council.
3. All of the members of the board who are eligible to be and who elect in writing to sit as members of the French-language education council are entitled to do so even if the number of such members is greater than the number of members determined according to rule 1.
4. If the number of eligible members of the board who elect in writing to be members of the French-language education council is less than the number of members determined according to rule 1 or if there are no such eligible members, the additional membership or the membership, as the case may be, of the French-language education council shall be made up by members elected in accordance with subsection (6).
5. If the number of members of the French-language education council determined according to rule 1 is less than three, it shall be composed of three members or such greater number as have elected to be members under rule 2.
6. Where the number of members of the French-language education council determined according to rule 1 is less than three and the number of members who elect to be members under rule 2 is less than three, the total number of members of the board shall be increased by the difference between three members and the number of members who elect to be members under rule 2 and the additional members shall be members of the French-language education council and shall be elected in accordance with subsection (6).
7. The number of members of the French-language education council determined according to these rules shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

(2) If a board is required to have a French-language education council, every member of the board who has the right under subsection 23 (1) or (2), without regard to subsection

Qualified
members of
board

23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario is eligible to be a member of the French-language education council.

Qualifi-
cations for
election

(3) A person is qualified to be elected as a member of the French-language education council if,

- (a) the person is eligible to be elected as a member of the board; and
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

Calculations

(4) For the purpose of this Part, the calculated enrolment of French-language resident pupils of the board and the total calculated enrolment of resident pupils of the board are the numbers determined in accordance with subsections 277q (1) and (3), using data compiled as of the 30th day of September, 1985, as required by the Ministry before the coming into force of this section.

Idem

(5) From the enrolments calculated under subsection (4), the Ministry shall calculate the number of members of the French-language education council of each board.

Meeting to
elect council
members

(6) A board that is required to have a French-language education council shall, if necessary, make provision for a meeting of its French-speaking ratepayers, as defined in section 257a, for the purpose of electing by general vote members of the council who shall be members of the board.

Idem

(7) A board shall advertise in each of its schools and in the public media serving the local population, the place, date and time of a meeting under subsection (6) and take such additional action to publicize the meeting as it considers expedient and section 264 applies with necessary modifications to the election.

Time limit

(8) An election under rule 2 of subsection (1) must be delivered to the secretary of the board within fourteen days of the day this section comes into force.

Idem

(9) Where after the expiry of the fourteen-day period referred to in subsection (8), an election is required under sub-

section (6), the election shall be held within thirty days of the coming into force of this section.

(10) Where following an election under subsection (6), there are fewer than three members on the French-language education council of a board, the Minister, by order, shall appoint such number of qualified persons as members of the council as are necessary to provide for three members on the council.

Appoint-
ments to
council by
Minister

(11) If a board is required to have a French-language education council and the board has a French-language advisory committee under Part XI, the French-language advisory committee is dissolved on the day the council is constituted.

Dissolution
of advisory
committee

277y.—(1) A French-language education council shall be deemed to be constituted on the 1st day of December, 1986 and it shall hold its first meeting not later than the 7th day of December, 1986.

When council
constituted

(2) Section 183 and subsections 265 (1), (3) and (4) apply with necessary modifications to a French-language education council.

Open
meetings,
etc.

(3) If the office of a member of the French-language education council becomes vacant and the remaining members of the council constitute a majority of the council's members, the remaining members shall, at the first regular council meeting after the vacancy occurs, appoint to the office a person who is eligible to be a council member.

Vacancies in
council

(4) If the office of a member of the French-language education council becomes vacant and the remaining members of the council do not constitute a majority of the council's members, a new election shall be held under subsection 277x (6) to fill the vacancy or vacancies.

Idem

277z.—(1) Sections 277m, 277o, 277r and 277s apply with necessary modifications where a board has a French-language education council as if a reference therein to a French-language section were a reference to a French-language education council.

Miscellaneous

(2) Notwithstanding subsection 277s (2), a person who elected under rule 2 of subsection 277x (1) to be a member of a French-language education council of a board shall remain as a member of the board if the council is dissolved before the 1st day of December, 1988.

Idem

Estimates,
etc.

(3) Notwithstanding subsection 277n (2), section 277n applies to a board that has a French-language education council in respect of the years 1987 and 1988. ▲

English as
language of
instruction

277za.—(1) There shall be an English-language education council of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language education council of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and the board operates an English-language instructional unit under Part XI.

Interpretation

(2) For the purposes of subsection (1),

- (a) a reference in this Part to French, other than in this subsection, shall be deemed to be a reference to English;
- (b) a reference in this Part to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

12.—(1) Section 19 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (f) who is a separate school elector or a public school elector, that the elector has chosen to vote to elect members of the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*.

R.S.O. 1980,
c. 129

(2) Subsection 49 (1) of the said Act is amended by adding thereto the following paragraph:

- 6a. Where the election is to the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*, an elector is entitled to as many votes as there are members of the French-language section or the English-language

R.S.O. 1980,
c. 129

section, as the case may be, of the board but may not give more than one vote to any one candidate.

13.—(1) Subsection 116 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 9, section 1 and 1984, chapter 18, section 9, is further amended by relettering clause (ba) as clause (bb), by relettering clauses (bb) and (bc) as clauses (bd) and (be) respectively and by adding thereto the following clauses:

(ba) "Council" means the council established by section 120b;

(bc) "French-speaking ratepayer" means a person who is entitled to vote at an election of members of a board of education and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(2) The said Act is amended by adding thereto the following sections:

120a.—(1) Within two months after the date this section comes into force, the boards of education that have a French-language advisory committee under Part XI of the *Education Act* shall establish by resolution a new French-language advisory committee in accordance with the *Education Act* and when the new committee takes office the previous committee is dissolved.

New French-language advisory committees
R.S.O. 1980, c. 129

(2) Subsection (1) applies notwithstanding that the board of education operates a French-language instructional unit.

Idem

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board of education for the establishment of the new French-language advisory committee.

Deemed application

(4) This section is repealed on the 1st day of December, 1988.

Repeal

120b.—(1) There is established on the 1st day of December, 1988, a council to be known in French as "Le conseil des écoles françaises de la communauté urbaine de Toronto" and

Council established

in English as “The Metropolitan Toronto French-Language School Council”.

Duty of Council

R.S.O. 1980, c. 129

(2) Subject to section 120f, beginning on the 1st day of January, 1989, the Council shall operate all French-language instructional units under Part XI of the *Education Act* in the Metropolitan Area other than those operated by the Metropolitan Separate School Board.

Body corporate, composition

(3) The Council is a body corporate and shall be composed of nine members.

Designation

(4) The Council may be legally designated by either or both versions of its name.

Election of members

(5) Beginning with the regular election in 1988, the members of the Council shall be elected at the same time and for the same term of office as the boards of education and, subject to this Part, shall be elected in the same manner as members of a board of education.

Electoral areas

(6) For the purpose of electing members to the Council, the Metropolitan Area is divided into the four electoral areas named in column 1 of the following table and each electoral area shall be represented on the Council by the number of members set out opposite thereto in column 2:

Table	
Column 1	Column 2
Electoral Area	Number of members
1. the City of Toronto	3
2. the City of North York	3
3. the City of Scarborough and the Borough of East York	2
4. the Cities of Etobicoke and York	1

Idem

(7) The members of the Council to be elected in an electoral area shall be elected by general vote in the electoral area.

Qualification of members of Council

(8) A person is qualified to be elected as a member of the Council if,

(a) the person is qualified to be elected as a member of the board of education for the area municipality in which the person resides;

(b) the person is a French-speaking ratepayer; and

- (c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(9) A person is qualified to be an elector in respect of a Elector
member of the Council if,

- (a) the person is qualified to vote in a regular election of members of the board of education for the area municipality in which the person resides;
- (b) the person is a French-speaking ratepayer; and
- (c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(10) No person is entitled to vote in a regular election for Idem
both members of the Council and members of the board of education for the area municipality in which the person resides.

(11) The election of members of the Council for an electoral area shall be conducted by the same officers and in the same manner as elections of members of the boards of education in the same electoral area except that in the case of an election in the electoral area of the City of Scarborough and the Borough of East York and the electoral area of the Cities of Etobicoke and York, Election officers

- (a) the nominations in each case shall be submitted to the returning officer of the area municipality in the electoral area having the greatest equalized residential and farm assessment for public school purposes, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and
- (b) the clerk of each area municipality shall be the returning officer for the vote to be recorded in the clerk's area municipality and the clerk shall report forthwith the vote recorded to the returning officer referred to in clause (a), who shall prepare the final summary and announce the result of the vote.

Definition (12) For the purposes of subsection (11), "equalized residential and farm assessment" shall have the same meaning as in clause 59 (1) (a) of the *Education Act*.

R.S.O. 1980,
c. 129

Deemed
board of
education

120c.—(1) Except as provided in this Part, the Council, for the purposes of every Act, shall be deemed to be a board of education in the Metropolitan Area.

Allowances
for members

(2) The Council may set and pay allowances to its members for the term of office that expires the 1st day of December, 1991 despite subsection 167 (1a) of the *Education Act*.

Assumption
of existing
programs

R.S.O. 1980,
c. 129

120d.—(1) The Council shall assume, on the 1st day of January, 1989, the operation of all schools and classes established before that day by the boards of education under Part XI of the *Education Act* in which French is the language of instruction.

Possession of
facilities

(2) Subject to subsection (3), possession of the facilities used in relation to schools and classes described in subsection (1) vests in the Council on the 1st day of January, 1989 at such rent as the board of education concerned and the Council may agree and the board of education concerned and the Council shall agree upon the allocation and disposition, without compensation, of all other property situate upon or used in connection with the facilities.

Ownership of
school sites

(3) Where possession of all of the lands and premises used as a school site vests in the Council under subsection (2), the ownership of the lands and premises vests in the Council at the same time, without compensation, but subject to all existing debts, contracts, agreements and liabilities of the board of education that pertain to such school site.

Dispute

(4) Any dispute as to possession of any facilities or the allocation or disposition of property under subsection (2) or the transfer of ownership under subsection (3) may be referred by the Council and the board of education, or either of them, to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Transfer of
employees

R.S.O. 1980,
c. 129

(5) On the 1st day of January, 1989, the employment contract of every employee of a board of education who was employed immediately before the coming into force of this section in a school or class established under Part XI of the *Education Act* is vested in and becomes an obligation of the Council.

120e. Beginning on the 1st day of January, 1989, no board of education shall operate a school or class under Part XI of the *Education Act*. Prohibition

120f. Notwithstanding subsection 120b (2), the School Board shall continue to operate schools and classes for trainable retarded pupils in the Metropolitan Area in which French is the language of instruction and the Council shall not operate such schools or classes. Exception

120g. A person who is qualified to be a resident pupil in respect of a board of education in the Metropolitan Area and exercises his or her right under subsection 258 (2) or 261 (1) of the *Education Act* is also qualified to be a resident pupil of the Council. Resident pupils of Council

120h. Subsections 127 (4) to (6b), section 130j, clause 133 (1) (e) and subsections 133 (4) to (6) do not apply in respect of the Council. Non-application

120i. In December, 1988 and in 1989, the Council may borrow from the School Board, notwithstanding that the estimates have not been approved by the School Board. Interim financing, 1988, 1989

(3) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, is amended by inserting after "Area" in the third line "and the chairman of the Council".

(4) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3 and 1984, chapter 18, section 11, is repealed and the following substituted therefor:

(3) The Board of Education for the Borough of East York, The Board of Education for the City of Etobicoke, The Board of Education for the City of York and the Council may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education or of the Council, as the case may be, to which such member belongs or of the member appointed in place of the chairman under subsection (6). Alternate members


14. Part XI-B, as enacted by section 11 of this Act, is repealed on the 1st day of December, 1988. Repeal

Commence-
ment



15.—(1) This Act, except subsections 13 (3) and (4), comes into force on the 1st day of October, 1986.

Idem

(2) Subsections 13 (3) and (4) come into force on the 1st day of December, 1988. 

Short title

16. The short title of this Act is the *Education Amendment Act, 1986*.

Bill 75

*(Chapter 29
Statutes of Ontario, 1986)*

An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act

The Hon. S. Conway
Minister of Education

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

Bill 75

1986

An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part XI of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, sections 62 to 67 and 1984, chapter 60, sections 17 to 25, is further amended by adding thereto the following section:

257a. In this Part,

Definitions

“board” means,

- (a) a board of education the members of which are elected under the *Municipal Elections Act*,

R.S.O. 1980,
c. 308

- (b) a county or district combined separate school board,

- (c) the Metropolitan Separate School Board, or

- (d) The Windsor Roman Catholic Separate School Board,

and includes,

- (e) for the purposes of section 258, a district school area board, a protestant separate school board, a rural separate school board and a combined separate school board,
- (f) for the purposes of section 261, a secondary school board and a board of education formed under section 69, and

(g) for the purposes of sections 274 to 277b, a board described in clause (e) or (f);

“committee”, except in sections 274 to 277b, means a French-language advisory committee formed under section 262;

“French-language instructional unit” means a class, group of classes or school in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

“French-speaking person” means a child of a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario;

“French-speaking ratepayer” means a person who is entitled to vote at an election of members of the board and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

2. Subsection 258 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 17, is repealed.

3. Section 259 of the said Act is repealed and the following substituted therefor:

Duties and responsibilities of advisory committee in elementary schools

259. Where a board has established a French-language advisory committee under section 262, or an English-language advisory committee under section 272, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the elementary schools operated by the board as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes.

4. Section 260 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 18, is repealed.

5.—(1) Subsections 262 (1), (2) and (3), subsection 262 (3a), as enacted by the Statutes of Ontario, 1982, chapter 32, section 63, subsection 262 (4), as amended by the Statutes of Ontario,

1982, chapter 32, section 63, and subsection 262 (5) of the said Act are repealed and the following substituted therefor:

(1) A board by resolution shall establish a French-language advisory committee and provide for the holding of elections of members of the committee if, French-language advisory committee

- (a) the board does not operate a French-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and
- (d) ten or more French-speaking ratepayers apply in writing to the board for the establishment of the French-language advisory committee.

(1a) In this section, “calculated enrolment”, “resident pupil” and “total calculated enrolment” have the same meaning as in Part XI-A. Definitions

(1b) Clause (1) (c) does not apply until the 1st day of December, 1988. Non-application of cl. (1) (c)

(1c) The board shall pass the resolution and the elections shall be held within two months after receiving the application. Resolution

(1d) The committee shall consist of, Composition of committee

- (a) not more than three persons appointed by the board from among the members of the board; and
- (b) six French-speaking ratepayers who are not members of the board but have the qualifications to be elected to the board, elected by French-speaking ratepayers.

- Qualifications** (1e) A person is qualified to be appointed or elected to the committee if the person is a French-speaking ratepayer and is qualified to be elected to the board.
- Disqualification** (1f) A person who ceases to be qualified to be elected to a board is not qualified to act as a member of a committee.
- Committee of less than nine members** (2) A committee may meet and conduct business notwithstanding that fewer than three persons are appointed to it under clause (1d) (a) or that fewer than six persons are elected to it under clause (1d) (b).
- Application of s. 206** (3) Section 206 applies with necessary modifications to a member of a committee under clause (1d) (b).
- Term of office** (4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized and a successor is appointed or elected, as the case may be.
- Apportionment of members** (5) The board, subject to subsections (8) and (9), shall apportion the number of members under clause (1d) (b) among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking persons who elect to receive their education in a French-language instructional unit from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.
- (2) Section 262 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 63, is further amended by adding thereto the following subsections:**
- Idem** (9) Where a board has a committee that was established before the coming into force of this section and the board is required to establish a new committee under subsection (2), the board, for the purpose of making the first apportionments under subsection (5) for the new committee, shall consult with the existing committee before making the apportionment.
- Dissolution** (10) A committee is dissolved on the 1st day of December in a year, if no resident pupil of the board has received instruction in a French-language instructional unit operated by another board at some time in October or November of that year pursuant to an agreement described in clause (1) (b).

6. Subsection 266 (1) of the said Act is amended by inserting after "board" in the second line "from among the members of the board".

7. Section 268 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 20, is further amended by renumbering subsection (1) as subsection (1c) and by adding thereto the following subsections:

(1) The chairman of the committee has the right,

Attendance
of committee
chairman at
board
meetings

(a) to attend meetings of the board in the same manner as a member of the board; and

(b) to participate in the discussion at a meeting of the board in respect of any matter that is within the jurisdiction of the committee under subsection 267 (1).

(1a) The chairman of the committee has the right to present recommendations of the committee to the board and to speak to the recommendations.

Presentation
of
recommen-
dations

(1b) The chairman of the committee may designate a member of the committee to act in the place of the chairman at any meeting of the board.

Designation
of member
by chairman

(1d) The chairman of the committee or a member of the committee designated by the chairman of the committee to attend a meeting of the committee of the whole board is subject to the same rule of confidentiality that applies to members of the board.

Confiden-
tiality

(5) Every person elected to a committee, on or before the day of the first meeting of the committee that he or she attends, shall make and subscribe a declaration in the same form with necessary modifications as subsections 185 (1) and (2) require of a person elected to a board and, for the purpose,

Declaration

(a) a reference to a person elected to a board shall be deemed to be a reference to a person elected to a committee;

- (b) a reference to a person elected to fill a vacancy on a board shall be deemed to be a reference to a person elected to fill a vacancy on a committee;
- (c) a reference to a meeting shall be deemed to be a reference to a meeting of the committee or, if the person is a member of the committee designated by the chairman to attend a meeting of the board, a meeting of the committee or of the board; and
- (d) a reference to the office of trustee shall be deemed to be a reference to the office of member of the committee.

Resignation

(6) A member of a committee who fails to comply with subsection (5) shall be deemed to have resigned from the committee.

Filing

(7) A member of a committee shall file his or her declaration with the secretary of the board within eight days after making and subscribing the declaration.

8. Subsection 272 (2) of the said Act is repealed and the following substituted therefor:

English-language advisory committee

(2) A board by resolution shall establish an English-language advisory committee and provide for the holding of elections of members of the committee if,

- (a) the board does not operate an English-language instructional unit;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards;
- (c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and
- (d) ten or more ratepayers apply in writing to the board for the establishment of the English-language advisory committee.

(3) Sections 260 to 273 apply with necessary modifications in respect of English-language advisory committees.

Application
of ss. 260
to 273

(4) In this section, “calculated enrolment”, “resident pupil” and “total calculated enrolment” have the same meanings as in Part XI-A.

Definitions

(5) Clause (2) (c) does not apply until the 1st day of December, 1988.

Non-appli-
cation of
clause (2) (c)

9.—(1) Section 274 of the said Act is amended by striking out “In this Part” in the first line and inserting in lieu thereof “In this section and in sections 275 to 277b”.

(2) Clause 274 (b) of the said Act is amended by adding at the end thereof “and includes a French-language education council and an English-language education council under Part XI-B”.

10.—(1) Within two months after the date on which this section comes into force, every board that has a French-language advisory committee or an English-language advisory committee under Part XI of the *Education Act* and that is not required to establish a French-language education council or an English-language education council under Part XI-B shall establish by resolution a new French-language advisory committee or a new English-language advisory committee, as the case requires, in accordance with the *Education Act*, as amended by this Act, and when the new committee takes office, the previous committee is dissolved.

Transition

(2) In subsection (1),

Definitions

“board” has the same meaning as in Part XI-A of the *Education Act*, as enacted by section 11 of this Act;

“Part XI-B” means Part XI-B of the *Education Act*, as enacted by section 11 of this Act.

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board for the establishment of the new French-language advisory committee.

Deemed
application

11. The said Act is amended by adding thereto the following Parts:

PART XI-A

GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

Definitions

277c. In this Part,

“board” means,

- (a) a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the *Municipal Elections Act*,
- (b) a county or district combined separate school board,
- (c) the Metropolitan Separate School Board, or
- (d) The Windsor Roman Catholic Separate School Board;

R.S.O. 1980,
c. 308

“calculated enrolment”, in relation to resident pupils of a board, means the number of French-language resident pupils or the number of resident pupils other than French-language resident pupils, as the case requires, calculated by the Ministry under this Part;

“estimated revenues” means revenues from all sources receivable by a board as set out in the estimates prepared and adopted by the board;

“French-language”, in relation to a resident pupil, means a resident pupil enrolled in a French-language instructional unit;

“French-language instructional unit” means a class, group of classes or school under Part XI in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

R.S.O. 1980,
c. 308

“regular election” has the same meaning as in the *Municipal Elections Act*;

“resident pupil”, in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who,

- (a) is qualified to be a resident pupil of the board and is enrolled in a school,

- (i) operated by the board, or
 - (ii) operated by another board to which the first-mentioned board pays fees in respect of the pupil, or
- (b) is not qualified by residence to be a resident pupil of a board but is enrolled in a school operated by the board,
- (i) pursuant to section 45, or
 - (ii) where fees are required to be paid by or on behalf of the pupil by or under this Act other than by another board, notwithstanding that the payment of all or a part of the fees is waived by the board that operates the school at which the pupil is enrolled;

“total calculated enrolment”, in relation to resident pupils of a board, means the total number of resident pupils of the board calculated by the Ministry under this Part.

277d.—(1) Every board that operates a French-language instructional unit shall have a French-language section of the board.

French-
language
section

(2) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

300 resident
pupils

(3) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

10 per cent
enrolment

(4) Subsections (1) to (3) apply only if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Minority

(5) Subsections (1) to (3) apply only in respect of boards elected in and after the regular election in the year 1988.

Application
of subss.
(1) to (3)

Exception

(6) Notwithstanding any other provision of this Part, a French-language section of a board shall not be established if on the first day of the school year in which a regular election is to be held, the board is not operating a French-language instructional unit and it is not providing education for at least 285 of its resident pupils or at least 9.50 per cent of its resident pupils pursuant to an agreement as described in subsection (2) or (3).

Authority of French-language section

277e. The French-language section of a board shall govern for the board the French-language instructional units of the board.

Number of members of French-language section

277f. The number of members of the French-language section of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language section shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board.
2. In rules 1 and 3, the "total number of elected members of the board" means the total number of members as determined under section 57 or 58 or subsection 59 (2), without regard to subsection 59 (4), (5) or (6), or subsection 113 (2), without regard to subsection 113 (4), or subsection 116 (2) or as determined by or under another Act, as may be appropriate.
3. The total number of elected members of the board shall not be increased by the creation of the French-language section; the number of other members of the board shall be decreased by a number of members equal to the number of members of the French-language section.
4. If the number of members of the French-language section determined according to rule 1 is less than three, the French-language section shall be composed of three members.
5. If rule 4 applies to determine the number of members of the French-language section, the total number of members of the board shall be increased by the number of members equal to the difference

between three members and the number of members of the French-language section determined according to rule 1.

6. The number of members of the French-language section determined according to rules 1 to 5 shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

277g. A person is qualified to be elected as a member of the French-language section of a board if,

Qualifications of members of French-language section

- (a) the person is qualified to be elected as a member of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and
- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

277h.—(1) A person is qualified to be an elector in respect of a member of the French-language section of a board if,

Elector

- (a) the person is qualified to vote in a regular election of members of the board;
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and
- (c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

(2) No person is entitled to vote in a regular election for both members of the French-language section of a board and other members of the board.

Idem

277i.—(1) The members of the French-language section of a board shall be elected in accordance with this section by

Election

the persons qualified to vote for members of the French-language section of the board.

General vote

(2) Subject to subsections (3) to (7), the members of the French-language section of a board shall be elected by general vote.

Vote by
electoral
areas

(3) For the purposes of electing the members of the French-language section of a board at the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, where a board has a French-language advisory committee or a French-language education council, the committee or the council, as the case may be, may divide the area of jurisdiction of the board into electoral areas and determine the representation for each electoral area.

Idem

(4) For a regular election to be held in 1991, or thereafter, where a board has a French-language section, the section may divide the area of jurisdiction of the board into electoral areas for the purposes of electing the members of the next section and for filling vacancies therein and determine the representation for each electoral area.

Public
meeting

(5) Before passing a resolution under subsection (3) or (4), the French-language advisory committee, French-language education council or French-language section of a board, as the case may be, shall hold at least one public meeting at which French-speaking ratepayers shall be given an opportunity to make representations on the proposed electoral areas.

Final
determination

(6) Following the public meeting or meetings held under subsection (5), the electoral areas may be fixed as originally proposed or with such amendments as the committee, council or section of a board, as the case may be, considers appropriate and without holding any further public meetings.

Idem

(7) Where electoral areas have been established for an election, the members of the French-language section shall be elected by general vote in each electoral area.

Idem

(8) A resolution to establish electoral areas is of no effect unless it is passed before the 1st day of August in the year of the regular election to which it relates and unless before that date a certified copy of the resolution is delivered to the clerks of the municipalities responsible for conducting the nominations of the other members of the board.

Boundaries

(9) The clerk of a municipality shall adjust a boundary of an electoral area so as to prevent the division of polling subdivisions established for the election.

(10) The election of members of a French-language section of a board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

Election
officers

(11) Where the area of jurisdiction of a board includes more than one municipality or includes territory without municipal organization, the nominations of the members of the French-language section of the board shall be conducted by the same municipal clerk as conducts the nominations for the other members of the board and the clerks of the municipalities shall perform the same function as returning officers as they do with respect to the election of the other members of the board.

Idem

(12) For the purpose of performing the function of returning officer, the secretary of the board shall be the clerk of each part of territory without municipal organization in the area of jurisdiction of the board that is deemed to be a district municipality for school purposes.

Idem

(13) A clerk described in subsection (8) shall provide to the clerks of the other municipalities, if any, in the area of jurisdiction of the board such information as is required by them to conduct the election of the members of the French-language section of the board.

Information

277j. Sections 183 and 184, except subsection 184 (11), apply with necessary modifications to a French-language section of a board.

Meetings,
etc.

277k.—(1) Where a board is required to have a French-language section and the areas to be represented by members of the board are fixed by or under this or any other Act, the Minister, after considering the recommendations, if any, of the board, may by order,

Areas of
representation

(a) change the areas to be represented by one or more members of the board who are not members of the French-language section; and

(b) prescribe a different method of determining the areas to be represented by one or more members of the board who are not members of the French-language section.

(2) A member of a French-language education council or a French-language section of a board shall not vote on any recommendations that the board proposes to make under subsection (1).

Limitation

Vacancy

277-l.—(1) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section constitute a majority of the members elected to the section, the remaining members of the section shall, at the first regular meeting of the section after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the section.

Idem

(2) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section do not constitute a majority of the members elected to the section, a new election shall be held to fill the vacancy or vacancies.

Idem

(3) A member of the French-language section of a board appointed under subsection (1) or elected under subsection (2) shall hold office for the remainder of the term of office of the membership of the board.

Jurisdiction

277m.—(1) The following matters are within the exclusive jurisdiction of the French-language section of a board:

1. The planning and establishment of French-language instructional units, including the preparation and submission of capital expenditure forecasts in respect of such units to the board for submission to the Ministry.
2. The administration and the closing of French-language instructional units.
3. Admissions committees under subsection 258 (6a) and section 273.
4. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a French-language instructional unit.
5. The recruitment and assignment of teachers and administrative and supervisory personnel for French-language instructional units.
6. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in French-language instructional units.

(2) The following matters are outside the jurisdiction of the French-language section of a board and its members: Excluded matters

1. The planning and establishment of schools that are not French-language instructional units, including the preparation and submission of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.
2. The administration and the closing of schools that are not French-language instructional units.
3. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a school or class that is not a French-language instructional unit.
4. The recruitment and assignment of teachers and administrative and supervisory personnel for schools and classes mentioned in paragraph 3.
5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in a school or class that is not under Part XI.

(3) In respect of any matter not referred to in subsection (1) or (2), including the employment of the director of education, a member of the French-language section of a board has the same powers, duties, rights and responsibilities as a member of the board who is not a member of the French-language section. Common jurisdiction

(4) The following rules apply with respect to quorums where a board has a French-language section: Quorum

1. The presence of a majority of all the members constituting the board is necessary to form a quorum when dealing with a matter that is not a matter to which paragraph 2 or 3 applies.
2. The presence of a majority of all the members of a French-language section of a board is necessary to form a quorum when dealing with matters within the exclusive jurisdiction of the French-language section of the board.

3. The presence of a majority of all members of a board who are not members of the French-language section of the board is necessary to form a quorum when dealing with matters outside the jurisdiction of the French-language section of the board.
4. Where the board is a board of education and the board, other than the French-language section, is composed, in part, of members who are elected by separate school electors, for the purposes of paragraph 3, when dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board by the public school electors is necessary to form a quorum.
5. Subsection 184 (11) does not apply.

Change of
jurisdiction

(5) If a majority of the members of the French-language section of a board and a majority of the other members of the board each resolve that a matter that is a centralized service, as defined in subsection 277n (6), shall be within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members, subsections (1) and (2) shall be deemed to be modified accordingly in respect of the board, and the secretary of the board shall transmit to the Minister notice of the change of jurisdiction.

Reversion of
jurisdiction

(6) A resolution passed under subsection (5) shall cease to have effect at the end of the term of the members in office when the resolution was passed unless a majority of the members of the French-language section of the board and a majority of the other members of the board resolve that it shall cease to have effect at an earlier date.

Application

277n.—(1) This section applies to every board that has a French-language section under this Part.

Idem

(2) This section applies in respect of the year 1989 and every subsequent year.

Allocation
of estimated
revenues

(3) After the estimates of the board in respect of a year are approved or adopted, as the case requires, the board shall allocate the amounts of its estimated revenues for the year as follows:

1. Firstly, to the specific educational programs or specific schools or classes that generated a portion of the estimated revenues, in amounts equal to the amounts generated.

2. Secondly, to the centralized services of the board, in amounts equal to the amounts set out for the centralized services in the estimates.
3. Thirdly, to all the schools and classes operated by the board.

(4) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the schools and classes that are French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Schools
and
classes

(5) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the balance of the schools and classes that are not French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Balance
of schools
and classes

(6) In this section, "centralized services" means,

Definition

- (a) salaries, benefits and professional development of employees but excluding employees whose recruitment and assignment is specified in this Part as either within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members;
- (b) normal maintenance of and operational services and equipment required for school sites;
- (c) school supplies other than instructional and learning materials;
- (d) transportation of pupils to and from school and from school to school;
- (e) allocation to reserve funds and the reserve for working funds;
- (f) establishment and maintenance of the head office of the board, including services operated therefrom;
- (g) permanent improvements other than the replacement for schools and classes of furniture, furnishings, library books and instructional equipment and apparatus; and

- (h) expenditures that are not within clauses (a) to (g) but that are approved from time to time by the board.

Duty of
board

277o.—(1) Every board shall ensure that the matters that are within the exclusive jurisdiction and the matters that are outside the jurisdiction of the French-language section of the board are provided for when the board prepares and adopts its estimates and when the board allocates its estimated revenues.

Variation

(2) Subject to subsection (1), a board may vary an allocation in order to accommodate a change in circumstances or assumptions upon which the estimates of the board were made.

Annual
filing by
boards

277p.—(1) Every board shall file annually with the Ministry a report in the prescribed form in respect of the enrolment of resident pupils of the board in schools and classes operated as French-language instructional units and in respect of the enrolment of resident pupils of the board in schools and classes not operated as French-language instructional units.

Counting
date

(2) Every board shall compile the data mentioned in subsection (1) as of the 30th day of September in each year, commencing as of the 30th day of September, 1986.

Calculations
by Ministry

277q.—(1) The Ministry shall calculate the calculated enrolment of French-language resident pupils, the calculated enrolment of resident pupils other than French-language resident pupils and the total calculated enrolment of resident pupils of each board.

Idem

(2) From the enrolments calculated under subsection (1), the Ministry shall calculate the number of members to be elected to the French-language section of each board in the next regular election.

Additional
factor in
calculations

(3) In order to allow for statistical inaccuracies, the Ministry shall calculate a calculated enrolment of French-language resident pupils,

- (a) that is not less than 9.50 per cent and not more than 10 per cent of the calculated enrolment of resident pupils of a board as 10 per cent of the calculated enrolment of resident pupils of the board; and
- (b) that is not less than 285 and not more than 300 resident pupils of the board as 300 resident pupils of the board.

(4) For the purposes of the regular election in the year 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September, 1987.

Election
in 1988

(5) For the purposes of a regular election held after 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September in the year immediately preceding the year in which the regular election is held.

Regular
elections

(6) Where members are to be elected to the French-language section of a board, the Minister, before the 1st day of July in the year in which the election is to be held,

Notice to
boards and
returning
officers

(a) shall notify the board and the Commission of the results of the calculations under subsections (1) and (2);

(b) shall notify the proper returning officer of the number of members to be elected to the French-language section of the board;

(c) shall notify the appropriate assessment commissioners; and

(d) shall give public notice that the board qualifies under this Part to have a French-language section and of the number of members to be elected to the French-language section of the board.

(7) A board or the Commission or a committee may appeal the accuracy of the calculations under subsections (1) and (2) to the Minister by application made not later than the 15th day of July in the year in which the election is to be held.

Application
to Minister

(8) The Minister shall appoint a person to hear and consider the matter and report to the Minister, and the Minister shall make such changes in the calculations as are recommended in the report.

Hearing and
decision

(9) The Minister,

Further
notice

(a) shall notify the board of any changes in the results of the calculations;

(b) shall notify the proper returning officer of any change in the number of members to be elected to the French-language section of the board;

- (c) shall notify the appropriate assessment commissioners; and
- (d) shall give public notice of any change in the qualification of the board to have a French-language section or in the number of members of the French-language section of the board,

consequent upon the report to the Minister.

Definitions

(10) In this section, "Commission" and "committee" have the same meanings as in section 274.

Liaison
committee

277r.—(1) Any two or more committees established by boards under Part XI or French-language sections of boards, or any combination of such committees and French-language sections, may establish a liaison committee which shall be known as a regional committee for French-language education.

Function

(2) A regional committee for French-language education may consider and make recommendations to the French-language section of a board or to the committee established by a board under Part XI on any matter that affects French-language education.

Notice to
Minister

277s.—(1) If before the 30th day of June in any year the French-language section becomes aware that on the first day of the following school year it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify, in writing, the full board of such fact and the board shall forthwith notify, in writing, the Minister.

Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the 1st day of December next following the time at which the notice was required to be given and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board may revoke a notice given under subsection (1) at any time before the dissolution of the French-language section of the board if after the 1st day of September in the year in which the notice was given, the board has any French-language instructional units or it provides education to resi-

dent pupils as described in subsection (1) and the revocation shall be by notice, in writing, delivered to the Minister.

(4) Where a French-language section of a board is dissolved, at least ten French-speaking ratepayers, within the meaning of Part XI of the Act, shall be deemed to have applied to the board on the day of the dissolution for the establishment of a French-language advisory committee.

Deemed
application

277t.—(1) There shall be an English-language section of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language section of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and,

English as
language of
instruction

- (a) the board operates an English-language instructional unit under Part XI;
- (b) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards;
- (c) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards.

(2) For the purposes of subsection (1),

Interpretation

- (a) a reference in this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part, other than in subsection (3), to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part, other than in subsection (3), to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a

person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

French as majority

(3) Where a board has an English-language section, the other members of the board must have the qualifications to be elected as a member of a French-language section of a board as described in section 277g and an elector of such other members must have the qualifications to be an elector in respect of a French-language section of a board as described in section 277h.

Forms

277u.—(1) The Minister may prescribe the form of the report under subsection 277p (1) and require its use for the purposes of this Part.

Application of R.S.O. 1980, c. 446

(2) An act of the Minister under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

PART XI-B

INTERIM GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

Definitions

277v. In this Part, “board”, “calculated enrolment”, “French-language”, in relation to a resident pupil, “French-language instructional unit”, “resident pupil” and “total calculated enrolment” have the same meanings as in Part XI-A.

French-language education council

277w.—(1) Every board that on the first school day in September, 1986, operates a French-language instructional unit shall have a French-language education council if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

Authority of council

(2) The French-language education council of a board shall govern for the board the French-language instructional units of the board.

Number of members of French-language education council

277x.—(1) The number of members of the French-language education council of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language education council shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board.

2. The French-language education council shall be composed of those members of the board who are eligible to be members of and who elect in writing to sit as members of the French-language education council.
3. All of the members of the board who are eligible to be and who elect in writing to sit as members of the French-language education council are entitled to do so even if the number of such members is greater than the number of members determined according to rule 1.
4. If the number of eligible members of the board who elect in writing to be members of the French-language education council is less than the number of members determined according to rule 1 or if there are no such eligible members, the additional membership or the membership, as the case may be, of the French-language education council shall be made up by members elected in accordance with subsection (6).
5. If the number of members of the French-language education council determined according to rule 1 is less than three, it shall be composed of three members or such greater number as have elected to be members under rule 2.
6. Where the number of members of the French-language education council determined according to rule 1 is less than three and the number of members who elect to be members under rule 2 is less than three, the total number of members of the board shall be increased by the difference between three members and the number of members who elect to be members under rule 2 and the additional members shall be members of the French-language education council and shall be elected in accordance with subsection (6).
7. The number of members of the French-language education council determined according to these rules shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

(2) If a board is required to have a French-language education council, every member of the board who has the right under subsection 23 (1) or (2), without regard to subsection

Qualified
members of
board

23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario is eligible to be a member of the French-language education council.

Qualifications for election

(3) A person is qualified to be elected as a member of the French-language education council if,

- (a) the person is eligible to be elected as a member of the board; and
- (b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

Calculations

(4) For the purpose of this Part, the calculated enrolment of French-language resident pupils of the board and the total calculated enrolment of resident pupils of the board are the numbers determined in accordance with subsections 277q (1) and (3), using data compiled as of the 30th day of September, 1985, as required by the Ministry before the coming into force of this section.

Idem

(5) From the enrolments calculated under subsection (4), the Ministry shall calculate the number of members of the French-language education council of each board.

Meeting to elect council members

(6) A board that is required to have a French-language education council shall, if necessary, make provision for a meeting of its French-speaking ratepayers, as defined in section 257a, for the purpose of electing by general vote members of the council who shall be members of the board.

Idem

(7) A board shall advertise in each of its schools and in the public media serving the local population, the place, date and time of a meeting under subsection (6) and take such additional action to publicize the meeting as it considers expedient and section 264 applies with necessary modifications to the election.

Time limit

(8) An election under rule 2 of subsection (1) must be delivered to the secretary of the board within fourteen days of the day this section comes into force.

Idem

(9) Where after the expiry of the fourteen-day period referred to in subsection (8), an election is required under sub-

section (6), the election shall be held within thirty days of the coming into force of this section.

(10) Where following an election under subsection (6), there are fewer than three members on the French-language education council of a board, the Minister, by order, shall appoint such number of qualified persons as members of the council as are necessary to provide for three members on the council.

Appoint-
ments to
council by
Minister

(11) If a board is required to have a French-language education council and the board has a French-language advisory committee under Part XI, the French-language advisory committee is dissolved on the day the council is constituted.

Dissolution
of advisory
committee

277y.—(1) A French-language education council shall be deemed to be constituted on the 1st day of December, 1986 and it shall hold its first meeting not later than the 7th day of December, 1986.

When council
constituted

(2) Section 183 and subsections 265 (1), (3) and (4) apply with necessary modifications to a French-language education council.

Open
meetings,
etc.

(3) If the office of a member of the French-language education council becomes vacant and the remaining members of the council constitute a majority of the council's members, the remaining members shall, at the first regular council meeting after the vacancy occurs, appoint to the office a person who is eligible to be a council member.

Vacancies in
council

(4) If the office of a member of the French-language education council becomes vacant and the remaining members of the council do not constitute a majority of the council's members, a new election shall be held under subsection 277x (6) to fill the vacancy or vacancies.

Idem

277z.—(1) Sections 277m, 277o, 277r and 277s apply with necessary modifications where a board has a French-language education council as if a reference therein to a French-language section were a reference to a French-language education council.

Miscellaneous

(2) Notwithstanding subsection 277s (2), a person who elected under rule 2 of subsection 277x (1) to be a member of a French-language education council of a board shall remain as a member of the board if the council is dissolved before the 1st day of December, 1988.

Idem

Estimates,
etc.

(3) Notwithstanding subsection 277n (2), section 277n applies to a board that has a French-language education council in respect of the years 1987 and 1988.

English as
language of
instruction

277za.—(1) There shall be an English-language education council of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language education council of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and the board operates an English-language instructional unit under Part XI.

Interpretation

(2) For the purposes of subsection (1),

- (a) a reference in this Part to French, other than in this subsection, shall be deemed to be a reference to English;
- (b) a reference in this Part to French language shall be deemed to be a reference to English language; and
- (c) a reference in this Part to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

12.—(1) Section 19 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (f) who is a separate school elector or a public school elector, that the elector has chosen to vote to elect members of the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*.

R.S.O. 1980,
c. 129

(2) Subsection 49 (1) of the said Act is amended by adding thereto the following paragraph:

- 6a. Where the election is to the French-language section, or the English-language section, of a board under Part XI-A of the *Education Act*, an elector is entitled to as many votes as there are members of the French-language section or the English-language

R.S.O. 1980,
c. 129

section, as the case may be, of the board but may not give more than one vote to any one candidate.

13.—(1) Subsection 116 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 9, section 1 and 1984, chapter 18, section 9, is further amended by relettering clause (ba) as clause (bb), by relettering clauses (bb) and (bc) as clauses (bd) and (be) respectively and by adding thereto the following clauses:

(ba) "Council" means the council established by section 120b;

(bc) "French-speaking ratepayer" means a person who is entitled to vote at an election of members of a board of education and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(2) The said Act is amended by adding thereto the following sections:

120a.—(1) Within two months after the date this section comes into force, the boards of education that have a French-language advisory committee under Part XI of the *Education Act* shall establish by resolution a new French-language advisory committee in accordance with the *Education Act* and when the new committee takes office the previous committee is dissolved.

New French-language advisory committees
R.S.O. 1980, c. 129

(2) Subsection (1) applies notwithstanding that the board of education operates a French-language instructional unit.

Idem

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board of education for the establishment of the new French-language advisory committee.

Deemed application

(4) This section is repealed on the 1st day of December, 1988.

Repeal

120b.—(1) There is established on the 1st day of December, 1988, a council to be known in French as "Le conseil des écoles françaises de la communauté urbaine de Toronto" and

Council established

in English as “The Metropolitan Toronto French-Language School Council”.

Duty of Council

R.S.O. 1980, c. 129

(2) Subject to section 120f, beginning on the 1st day of January, 1989, the Council shall operate all French-language instructional units under Part XI of the *Education Act* in the Metropolitan Area other than those operated by the Metropolitan Separate School Board.

Body corporate, composition

(3) The Council is a body corporate and shall be composed of nine members.

Designation

(4) The Council may be legally designated by either or both versions of its name.

Election of members

(5) Beginning with the regular election in 1988, the members of the Council shall be elected at the same time and for the same term of office as the boards of education and, subject to this Part, shall be elected in the same manner as members of a board of education.

Electoral areas

(6) For the purpose of electing members to the Council, the Metropolitan Area is divided into the four electoral areas named in column 1 of the following table and each electoral area shall be represented on the Council by the number of members set out opposite thereto in column 2:

Table	
Column 1	Column 2
Electoral Area	Number of members
1. the City of Toronto	3
2. the City of North York	3
3. the City of Scarborough and the Borough of East York	2
4. the Cities of Etobicoke and York	1

Idem

(7) The members of the Council to be elected in an electoral area shall be elected by general vote in the electoral area.

Qualification of members of Council

(8) A person is qualified to be elected as a member of the Council if,

- (a) the person is qualified to be elected as a member of the board of education for the area municipality in which the person resides;
- (b) the person is a French-speaking ratepayer; and

- (c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(9) A person is qualified to be an elector in respect of a Elector member of the Council if,

- (a) the person is qualified to vote in a regular election of members of the board of education for the area municipality in which the person resides;
- (b) the person is a French-speaking ratepayer; and
- (c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(10) No person is entitled to vote in a regular election for Idem both members of the Council and members of the board of education for the area municipality in which the person resides.

(11) The election of members of the Council for an electoral area shall be conducted by the same officers and in the same manner as elections of members of the boards of education in the same electoral area except that in the case of an election in the electoral area of the City of Scarborough and the Borough of East York and the electoral area of the Cities of Etobicoke and York, Election officers

- (a) the nominations in each case shall be submitted to the returning officer of the area municipality in the electoral area having the greatest equalized residential and farm assessment for public school purposes, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and
- (b) the clerk of each area municipality shall be the returning officer for the vote to be recorded in the clerk's area municipality and the clerk shall report forthwith the vote recorded to the returning officer referred to in clause (a), who shall prepare the final summary and announce the result of the vote.

Definition

(12) For the purposes of subsection (11), "equalized residential and farm assessment" shall have the same meaning as in clause 59 (1) (a) of the *Education Act*.

R.S.O. 1980,
c. 129

Deemed
board of
education

120c.—(1) Except as provided in this Part, the Council, for the purposes of every Act, shall be deemed to be a board of education in the Metropolitan Area.

Allowances
for members

(2) The Council may set and pay allowances to its members for the term of office that expires the 1st day of December, 1991 despite subsection 167 (1a) of the *Education Act*.

Assumption
of existing
programs

120d.—(1) The Council shall assume, on the 1st day of January, 1989, the operation of all schools and classes established before that day by the boards of education under Part XI of the *Education Act* in which French is the language of instruction.

R.S.O. 1980,
c. 129

Possession of
facilities

(2) Subject to subsection (3), possession of the facilities used in relation to schools and classes described in subsection (1) vests in the Council on the 1st day of January, 1989 at such rent as the board of education concerned and the Council may agree and the board of education concerned and the Council shall agree upon the allocation and disposition, without compensation, of all other property situate upon or used in connection with the facilities.

Ownership of
school sites

(3) Where possession of all of the lands and premises used as a school site vests in the Council under subsection (2), the ownership of the lands and premises vests in the Council at the same time, without compensation, but subject to all existing debts, contracts, agreements and liabilities of the board of education that pertain to such school site.

Dispute

(4) Any dispute as to possession of any facilities or the allocation or disposition of property under subsection (2) or the transfer of ownership under subsection (3) may be referred by the Council and the board of education, or either of them, to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Transfer of
employees

(5) On the 1st day of January, 1989, the employment contract of every employee of a board of education who was employed immediately before the coming into force of this section in a school or class established under Part XI of the *Education Act* is vested in and becomes an obligation of the Council.

R.S.O. 1980,
c. 129

120e. Beginning on the 1st day of January, 1989, no board of education shall operate a school or class under Part XI of the *Education Act*.

Prohibition

R.S.O. 1980,
c. 129

120f. Notwithstanding subsection 120b (2), the School Board shall continue to operate schools and classes for trainable retarded pupils in the Metropolitan Area in which French is the language of instruction and the Council shall not operate such schools or classes.

Exception

120g. A person who is qualified to be a resident pupil in respect of a board of education in the Metropolitan Area and exercises his or her right under subsection 258 (2) or 261 (1) of the *Education Act* is also qualified to be a resident pupil of the Council.

Resident
pupils of
Council

120h. Subsections 127 (4) to (6b), section 130j, clause 133 (1) (e) and subsections 133 (4) to (6) do not apply in respect of the Council.

Non-
application

120i. In December, 1988 and in 1989, the Council may borrow from the School Board, notwithstanding that the estimates have not been approved by the School Board.

Interim
financing,
1988, 1989

(3) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, is amended by inserting after "Area" in the third line "and the chairman of the Council".

(4) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3 and 1984, chapter 18, section 11, is repealed and the following substituted therefor:

(3) The Board of Education for the Borough of East York, The Board of Education for the City of Etobicoke, The Board of Education for the City of York and the Council may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education or of the Council, as the case may be, to which such member belongs or of the member appointed in place of the chairman under subsection (6).

Alternate
members

14. Part XI-B, as enacted by section 11 of this Act, is repealed on the 1st day of December, 1988.

Repeal

**Commence-
ment**

15.—(1) This Act, except subsections 13 (3) and (4), comes into force on the 1st day of October, 1986.

Idem

(2) Subsections 13 (3) and (4) come into force on the 1st day of December, 1988.

Short title

16. The short title of this Act is the *Education Amendment Act, 1986*.



Bill 76

**An Act to implement the Terms of a Settlement
of all Claims arising out of the Contamination by
Mercury and other Pollutants of the
English and Wabigoon and Related River Systems**

The Hon. I. Scott

Attorney General

1st Reading June 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill implements, to the extent of Ontario's legislative authority, a settlement arrived at by Ontario, Canada, Reed Inc., Great Lakes Forest Products Ltd., The Islington Indian Band and The Grassy Narrows Indian Band of all disputes arising out of the contamination by mercury and other pollutants of the English and Wabigoon and related river systems. The terms of the settlement are more particularly set out in an Agreement between the parties signed by them in the month of November, 1985, that basically provides for the payment by Canada, Ontario, Reed Inc. and Great Lakes Forest Products Ltd., in the proportions set out in the Agreement, of a total of \$16,667,000 to be shared approximately equally by the two Bands. Reciprocal legislation is being enacted by the Parliament of Canada, to the extent of its legislative authority, and the implementation of the settlement is contingent upon the passage of both the provincial and the federal legislation.

Among the principal features of the Bill are the following:

1. A Fund is established, into which each of the two Indian Bands will deposit \$1,000,000, plus accrued interest, out of the moneys paid to the Bands by Canada and by Ontario in accordance with the terms of the settlement. Resort may be had to this Fund for particular assistance by individual members of the Bands who demonstrate they are affected by conditions consistent with methyl-mercury poisoning. Each Band may use the balance of the amount paid to it for such purposes as its Band Council considers appropriate.
2. A board is established, to be known as The Grassy Narrows and Islington Bands Mercury Disability Board, under whose general supervision the Fund will be administered. The seven members of the Board, to be composed of a chairman, two Band representatives, two physicians and two other persons, will be appointed by a search committee composed of the chief of each of the Bands and two other persons, one designated by Canada and one by Ontario. The administrative costs of the Board will be borne equally by Canada, Ontario and each of the two Bands.
3. An administrator is to be appointed by the Board who will receive applications for benefits to be paid out of the Fund and, in accordance with specific criteria set out in a plan document, make or decline to make an award to an applicant.
4. The decision of the administrator will be subject to review by the Board, whose decision will be final and not subject to judicial review.
5. The Fund is to be terminated by the Board when a period of three consecutive years passes without the making of a fresh award from the Fund, but not however in any event before January 1st, 2001. After purchasing from the balance in the Fund a life annuity for every applicant in receipt of an award and after repaying Ontario for any advances paid by it to maintain the Fund at a level of not less than \$100,000, as provided for in the settlement, the administrator is to pay any balance then remaining to the two Bands in equal amounts.
6. In consideration of the benefits conferred by the terms of the settlement, all existing and future rights of action of the Bands and of their past, present or future members in respect of claims and causes of action that are the subject of the settlement are abolished.

Bill 76**1986**

**An Act to implement the Terms of a Settlement
of all Claims arising out of the Contamination by
Mercury and other Pollutants of the
English and Wabigoon and Related River Systems**

WHEREAS the Government of Canada, the Government of Ontario, Reed Inc., Great Lakes Forest Products Ltd., The Islington Indian Band and The Grassy Narrows Indian Band have entered into a settlement of all claims and causes of action, past, present and future, arising out of the discharge by Reed Inc. and its predecessors of mercury and other pollutants into the English and Wabigoon and related river systems and the continuing presence of any such pollutants, including the continuing but now diminishing presence of methylmercury, in the related ecosystems since its initial identification in 1969;

Preamble

AND WHEREAS the discharge of such pollutants and governmental actions taken in consequence thereof may have had and may continue to have effects in respect of the social and economic circumstances and the health of the present and future members of the Bands;

AND WHEREAS the Government of Canada and the Government of Ontario have assumed certain obligations under the settlement in favour of the Bands;

AND WHEREAS the settlement provides, among other things, for the payment of certain sums to each Band, for the establishment of The Grassy Narrows and Islington Bands Mercury Disability Board, the establishment of the Grassy Narrows and Islington Bands Mercury Disability Fund, the payment of benefits to Band members and, subject to certain exceptions contained in the settlement, the abolition of all existing and future rights of action of the Bands and of every past, present or future member of the Bands, and the estates thereof, in respect of any claims and causes of action that are the subject of the settlement, in consideration of the rights and benefits set out in the settlement;

AND WHEREAS it is expedient that the Legislature give effect to and implement the terms of the settlement;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“administrator” means a person authorized under this Act to administer the Fund in accordance with a plan document;

“applicant” means any member or past member of a Band who makes an application or on whose behalf an application is made and lodged with the administrator, and shall be deemed to include, as if a member of a Band, a registered Indian customarily resident on a reserve before the 1st day of October, 1985;

“application” means a written application, in prescribed form, of an applicant and includes a medical report in prescribed form from an authorized physician;

“authorized physician” means a physician entitled to practice medicine in any jurisdiction in Canada or the United States of America and designated as an authorized physician by the Board;

“award” means a decision of the Board to make available a benefit to an applicant in respect of an application and includes a determination by the administrator which has not been reviewed by the Board;

“Band” means The Islington Band of Indians or The Grassy Narrows Band of Indians and “the Bands” means both of them and includes, for the purposes of sections 36 and 39, a registered Indian customarily resident on a reserve before the 1st day of October, 1985;

“Band Council” means the Council of a Band;

“benefit” means the monetary amounts paid or payable by the administrator pursuant to an award and “maximum benefit” means the maximum monetary amounts payable in accordance with the terms of the settlement;

“Board” means The Grassy Narrows and Islington Bands Mercury Disability Board established by this Act;

“certificate” means a resolution of the Council of the Band of which an applicant is a member, setting forth such matters as the Board may prescribe;

“condition” means an observable medical symptom, sign or condition, or combination of related medical symptoms, signs or conditions which,

- (a) is a known condition, or
- (b) has been determined by the Board to constitute a condition, on the basis that it is reasonably consistent with mercury poisoning and capable of significantly impairing the quality of life or limiting the activities of an applicant, and “known condition” means any of the conditions specified as known conditions in the settlement;

“costs of the Board” means,

- (a) fees and disbursements payable to or incurred by or on behalf of the members of the Board in connection with their duties as members,
- (b) the personal expenses of an applicant awarded by the Board under section 29, and
- (c) the expenses incurred by the Board in consulting with professionally qualified persons under clause 6 (1) (b),

but does not include the fees and disbursements of a member who is a Band representative or of a member who is an employee of any other party to the settlement;

“depletion” means the total amount of reserves maintained by the administrator;

“disability” means a condition or combination of conditions observed by an authorized physician upon examination of an applicant;

“disbursements” means the costs of travel, accommodation, meals and communications reasonably incurred by or on behalf of members of the Board in connection with their duties as members;

“fiscal year” means the period from the 1st day of April in one year to the 31st day of March in the next year;

“Fund” means the Grassy Narrows and Islington Bands Mercury Disability Fund established by this Act;

“plan document” means the document or documents which define the responsibilities of the administrator and includes an agreement between the Board, or members of the Board, and the administrator, the schedules prescribing criteria for persons who may obtain assistance for disability and the levels of benefits, Neurological Grading Guidelines, Clinical Neurological Examination Protocol and the form of application prescribed by the Board;

“prescribed” means prescribed by the Board;

“reserve” means, as the context requires, the land set aside for the use and benefit of a Band or an amount designated by the administrator according to actuarial principles for the satisfaction of an award;

“settlement” means a settlement made in the public interest with the Bands, as set out in a Memorandum of Agreement signed by the parties thereto in the month of November, 1985, of disputes arising out of the discharge, by Reed Inc. and its predecessors, of mercury and any other pollutants into the English and Wabigoon and related river systems, and the effects which the discharge of such mercury and other pollutants and the continuing but now diminished presence of methylmercury in the related ecosystems may have had and may continue to have upon, and the concerns raised in respect of, the social and economic circumstances and the health of the present and future members of the Bands;

“undepleted balance” means the actual balance of the Fund including accrued income, less depletion.

Purpose
of Act

2. The purpose of this Act is to implement, to the extent that the legislative authority of the Legislature extends thereto, the terms of a settlement, subject to certain exceptions contained therein, of all claims, whether past, present or future, arising out of the contamination by mercury and other pollutants of the English and Wabigoon and related river systems, the terms of which settlement are embodied in a Memorandum of Agreement signed by the parties thereto in the month of November, 1985, made between Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development, Her Majesty the Queen in Right of the Province of Ontario, Reed Inc., Great Lakes Forest Products Ltd., The Islington Indian Band and The Grassy Narrows Indian Band.

3.—(1) A board to be known as "The Grassy Narrows and Islington Bands Mercury Disability Board" is hereby established. Board established

(2) The Board shall consist of seven members, composed of a chairman and, Composition of Board

- (a) two members, one of whom is a representative of one Band and one of whom is a representative of the other Band;
- (b) two members, each of whom is a duly qualified physician; and
- (c) two members who are not representatives or members of either Band or duly qualified physicians.

4.—(1) The chairman and other members of the Board shall be appointed by a search committee, constituted in accordance with the terms of the settlement, on such terms and conditions as the search committee agrees upon with each Board member. Appointment of Board members

(2) The chairman and other members of the Board may be replaced from time to time by the search committee, and every appointment or replacement must be the unanimous decision of the search committee and shall be certified in writing by each member of the committee. Appointments or replacements to be unanimous

(3) Pursuant to the settlement, Canada, Ontario, The Islington Indian Band and The Grassy Narrows Indian Band shall each pay 25 per cent of the costs of the Board. Costs of the Board

(4) Disbursements of the Board or of members of the Board, as the case may be, shall generally be in accordance with the levels from time to time in effect in respect of employees of Ontario. Level of disbursements

(5) The administrator shall, in accordance with the procedures prescribed by the regulations made under this Act, Collection of costs of Board by administrator

- (a) collect the costs of the Board from time to time from the parties liable therefor; and
- (b) pay the moneys when received to the persons entitled thereto.

(6) Neither the Board nor any member thereof is liable for any act done or decision made in good faith in relation to any aspect of its proceedings. Liability of Board

Panel for
decision
of Board

5. The chairman, the two Band representatives and two other members, designated for the purpose by the chairman, constitute a panel of the Board and are sufficient for the exercise of all the jurisdiction and powers of the Board in connection with the making of a decision by the Board.

Powers of
Board

6.—(1) The Board may,

- (a) consult with and obtain the assistance of any official of the Government of Canada or of Ontario who is able to provide information, advice or assistance to the Board in respect of public health, public health education or any government programs that the Board considers may touch upon the matter of mercury poisoning;
- (b) consult with such professionally qualified persons as the Board considers necessary;
- (c) make such recommendations as the Board considers appropriate to the Bands or to any minister of the Government of Canada or Ontario;
- (d) amend the plan document in accordance with subsection 22 (1);
- (e) amend, or with the consent of the Attorney General of Ontario, terminate an agreement with an administrator and enter into an agreement with another administrator;
- (f) have regard to the terms of the settlement for the purpose of interpreting and giving effect to this Act,

and shall,

- (g) supervise the administration of the Fund and make awards or supervise the making of awards by the administrator in accordance with this Act; and
- (h) designate from time to time as authorized physicians two or more physicians that the Board considers,
 - (i) have expert knowledge in respect of conditions consistent with methylmercury poisoning, and

- (ii) will be available and may be required for the purpose of providing medical reports in respect of applicants.

(2) The Board may,

Idem

- (a) prescribe the form of an application;
- (b) prescribe the contents of an affidavit that is to accompany an application;
- (c) prescribe the matters that are to be included in a certificate;
- (d) prescribe the form of medical report to be submitted with an application;
- (e) prescribe any other matter or thing that by this Act is to be or may be prescribed.

(3) The Board may, in its discretion, make an award that takes effect on a day not earlier than the day the application relating to the award was made.

Retroactive
application
of award

7. Where the Board considers that, after the date of the settlement,

Where
conduct
of applicant
to be
considered
by Board

- (a) the conduct of an applicant has contributed and is contributing to the continuation or exacerbation of a disability;
- (b) the applicant at the time of the conduct had an understanding of its possible effects; and
- (c) the conduct occurred under circumstances where the applicant knew or ought to have known that a practical alternative form of conduct without significant disadvantage was available,

the Board,

- (d) shall consider the conduct in making or reviewing an award and may establish or vary conditions in the award; and
- (e) may, where there are clear clinical grounds for concluding that the conduct has contributed to the continuation or exacerbation of the disability or where the Board finds that any condition attached to an award under clause (d) has been disregarded, make

or vary an award to provide a benefit in such lesser amount than would otherwise be provided as the Board considers appropriate.

Fund to be established

8.—(1) There shall be established and maintained a fund to be known as the Grassy Narrows and Islington Bands Mercury Disability Fund into which shall be deposited by each Band the sum of money set out in the settlement.

Agreement between Board and administrator

(2) The Board shall make use of the services of an administrator in the investment, management and administration of the Fund and shall, subject to the approval of the Attorney General of Ontario, enter into such agreement or agreements with any person as the Board considers necessary for that purpose.

Gifts or bequests

(3) The administrator may,

- (a) accept and administer as part of the Fund any unconditional gift or bequest from any person; and
- (b) with the approval of the Board, accept and administer in accordance with the conditions attached thereto, any conditional gift or bequest from any person.

When Board not to approve acceptance of gift or bequest

(4) The Board shall not approve the acceptance of any conditional gift or bequest if the Board considers that the conditions attached thereto are not consistent with the objects of this Act or the administration of the Fund.

Income forms part of Fund

(5) The income of the Fund shall form part of the Fund.

Benefits paid out of Fund

(6) Every benefit paid by the administrator under the authority of this Act shall be paid out of the Fund.

Fees and expenses of administrator

(7) The fees and approved expenses of the administrator as provided for in the plan document shall be paid out of the Fund.

Reserves

(8) The administrator shall, in respect of each award, set aside and maintain a reserve, determined and revised from time to time in accordance with actuarial principles, in the amount estimated to be required, together with the income thereon, to provide for the payment of benefits under the award.

When undepleted balance is less than \$100,000

(9) In the event that the undepleted balance is less than \$100,000 at any time, the administrator shall thereupon give notice thereof in writing to the Bands, the Treasurer of

Ontario and the Board and thereupon the Treasurer shall from time to time as required deposit to the Fund out of the Consolidated Revenue Fund such amount of money as is required to raise the undepleted balance to not less than \$100,000.

(10) The administrator shall provide for an audit of the Fund annually and at the end of each fiscal year shall provide a copy of the auditor's report to the Bands, the Attorney General of Ontario, the Treasurer of Ontario and the Board.

Audit of
Fund

9. An applicant may, at any time before the Fund is closed, submit an application in the prescribed form for assistance from the Fund in respect of disability which the applicant believes is caused by mercury poisoning.

Application
for
assistance

10. An application shall be accompanied by,

Material to
accompany
application

- (a) an affidavit of the applicant setting out the matters prescribed;
- (b) in respect of the conditions manifested in the disability, a medical report from an authorized physician;
- (c) a certificate of the Council of the Band of which the applicant is a member setting out such matters as the Board prescribes; and
- (d) such other material as the Board prescribes.

11. Every application shall be submitted to the administrator and, in the event that an application is submitted by an applicant to the Board or to a member of the Board, the Board or the member shall forthwith transmit the application to the administrator.

Submission
of application
to
administrator

12. The administrator shall determine whether each application is in the prescribed form and, if it is not, shall provide written notice to the applicant setting out the deficiencies.

Application
to be in
prescribed
form

13. Any deficiencies may be corrected without resubmission of the entire application.

Corrections

14. Upon receipt of an application in the prescribed form, the administrator shall, within twenty-one days,

Duties of
administrator
on receipt of
application

- (a) if the application qualifies in accordance with the plan document and is accompanied by the material set out in section 10, subject to clause (c), advise

the applicant and the Board in writing that the application is accepted and specify the benefit payable in accordance with the plan document;

- (b) if the application does not appear to the administrator to qualify in accordance with the plan document or is not accompanied by the material set out in section 10, advise the applicant and the Board in writing of the reason it does not appear to qualify; or
- (c) if unable to determine whether the application qualifies, or what is the benefit payable, in accordance with the plan document, or if the administrator believes that there is any reason for the application to be considered by the Board, transmit the application to the Board together with such questions for the Board's decision as the administrator considers appropriate, and advise the applicant in writing that the application has been transmitted to the Board.

Provision
of interim
benefits to
applicant

15. When an application is transmitted to the Board under clause 14 (c), the administrator may, with the consent of the chairman, provide such benefit to the applicant as the administrator considers appropriate pending a decision from the Board and, in the event that the Board subsequently decides that an award should not be made or that a lower benefit should be provided, the amounts or the excess amounts which have been provided shall not be recovered from the applicant.

Where Board
required to
review
decision

16. An applicant or the Board or any member of the Board may, at any time after a determination by the administrator under clause 14 (a) or (b), by notice in writing to the Board or to the applicant or to the Board and the applicant respectively, require that the decision of the administrator be reviewed.

Powers of
Board

17. The Board shall, at its next meeting, or in any event within four months or, if more than two years after the coming into force of this Act, eight months after receipt of an application under clause 14 (c) or of notice under section 16, review the application and,

- (a) approve the application and make or confirm or vary an award; or
- (b) reject the application.

Provision
of benefits

18. When an application is subject to review under section 16, the administrator shall, pending receipt of the Board's decision, provide a benefit, or not, in accordance with the

determination made under section 14 and, if the determination is varied by the award of the Board, the administrator shall not give retroactive effect to the award unless expressly so directed by the Board's decision.

19. The chairman shall set forth and certify in writing every decision of the Board and shall incorporate in the decision the answer of the Board to any question submitted by the administrator under clause 14 (c), and shall provide a copy of the decision to the applicant and to the administrator.

Chairman to
certify
decision
of Board

20. The Board may in its sole discretion, at any time after giving notice to the applicant, on its own motion or upon request from an applicant or any member of the Board or the Attorney General of Ontario, review and vary any award.

Review by
Board

21.—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact and law that arise in any matter before it and, subject to sections 20 and 23, every decision of the Board is final and binding and is not subject to review and, subject to this Act, shall be given effect by the administrator.

Decision
final

(2) The *Statutory Powers Procedure Act* does not apply to the Board in its exercise of a statutory power of decision under this Act.

Non-
application
of
R.S.O. 1980,
c. 484

22.—(1) The Board shall not amend the plan document, except as provided for in subsection (2), without the consent of the Attorney General of Ontario, the Minister of Indian and Northern Affairs, Canada and the Band Councils.

Consent
required to
amend plan
document

(2) The Board may add any further condition to the plan document and assign points in respect of such condition in conformity with the distribution of points then in effect for other conditions.

Addition of
further
conditions
to plan
document

(3) Notwithstanding anything in this Act, the Board shall make or confirm or vary each award in such amount as it considers appropriate, having regard to the nature and extent of an applicant's disability, but shall not make any award in an amount greater than the maximum benefit.

Award to be
based on
nature and
extent of
disability

23. The Board shall establish its own procedure including, without limitation, the location of its meetings, and any applicant aggrieved by the procedure, even where the procedure prescribed by this Act has been followed, may request the Board to review an award under section 20.

Procedure

Evidence

24.—(1) The Board may make any decision without hearing any evidence but may, in its sole discretion, hear evidence under oath and every member of the Board may examine or cross-examine any person.

Applicant
may be
heard

(2) Any applicant may appear and be heard at any meeting of the Board at which his or her application or award is to be considered or reviewed, and the Board shall provide notice to each applicant accordingly.

Examination
of persons

25. No person other than a member of the Board may, except to the extent permitted by the Board in its sole discretion, examine or cross-examine any person at any meeting of the Board.

Report to be
considered

26. The Board shall consider, in respect of each condition manifested in the disability, the medical report of an authorized physician before making an award.

What Board
may consider

27. The Board shall consider any information, advice, report, evidence or other material or matter which, in its sole discretion, it deems useful for the purpose of deciding any matter including whether it may be appropriate to make or vary any award or awards, and may hear or, subject to subsection 24 (2), not hear any person.

No costs

28. The Board shall not award costs of any application.

Personal
expenses

29. The Board may, in its sole discretion, direct payment of all or part of the personal expenses of an applicant in connection with an application, whether or not the Board makes an award.

Quorum

30.—(1) The quorum of the Board shall be four of the panel established under section 5 and the decision of three or more members of the panel is the decision of the Board, and where a decision is not concurred in by three or more members of the Board,

- (a) in the case of a review brought under section 16, the decision of the administrator shall be deemed to be confirmed; and
- (b) in the case of an application transmitted under clause 14 (c), the application shall be deemed to be rejected.

Use of
telecommuni-
cations

(2) The Board may, with the consent of the members of the panel established under section 5 and, where applicable, of an applicant, conduct any meeting or make any decision by tele-

communications without the members being physically present in the same place.

(3) Other than for the purposes of section 32 and subject to subsection (4) of this section, not more than five members shall participate in any decision of the Board.

Five members only to participate in decision

(4) Notwithstanding section 5, the chairman may, if the nature of any decision appears to justify the consequent cost, establish a panel of all members of the Board, in which event the quorum shall be six and the decision of four or more members is the decision of the Board, and where a decision is not concurred in by four or more members of the Board,

Exception

(a) in the case of a review brought under section 16, the decision of the administrator shall be deemed to be confirmed; and

(b) in the case of an application transmitted under clause 14 (c), the application shall be deemed to be rejected.

31. Any member of the Board may assist an applicant in the preparation or submission of an application to the administrator or before the Board and shall not, by reason thereof, be disqualified from participating in the decision of the Board.

Assistance to applicant by Board member

32.—(1) The Fund may be terminated and closed by the Board after the expiry of three consecutive years from the date of the last award or variation of an award, but in any event not sooner than the 1st day of January, 2001, and with the consent of at least six members of the Board.

Termination of Fund

(2) The Board shall, before consenting to the Fund being closed, provide to the Minister of Indian and Northern Affairs, Canada, the Attorney General of Ontario and each of the Bands a report in respect of the efficacy of the Fund in achieving the objects of this Act.

Report of Board

(3) Upon the Board consenting to the Fund being closed,

Duty of administrator

(a) the administrator shall, if then possible, purchase from the balance of the Fund for every applicant then in receipt of a benefit a life annuity in the amount of the annual benefit or, if not then possible, do so as soon as it becomes possible, and thereupon advise the Board that the Fund is closed; and

(b) the administrator shall thereupon pay, to the extent of any balance of the Fund remaining, first to the

Treasurer of Ontario the total of any amounts paid by the Treasurer under subsection 8 (9), and then to each Band one-half of any balance remaining.

Board dissolved

(4) Upon the acceptance by the Attorney General of Ontario of the report provided for in subsection (2) and completion of the payments by the administrator provided for in subsection (3), the Board shall be dissolved.

Indemnification of Treasurer of Ontario

33. The Treasurer of Ontario shall be deemed to be and hereafter continue to be indemnified by each of the Bands, to the extent of any amounts paid to each Band under clause 32 (3) (b) together with interest calculated on such payments at a rate equal to the Consumer Price Index for Canada published by Statistics Canada, against liability for any claim by a person who would have been eligible to be an applicant but for the termination of the Fund brought against any party to the settlement in respect of the matters contemplated by the settlement.

Reciprocal legislation by Canada

34. This Act is enacted in contemplation of a reciprocal enactment by the Parliament of Canada for the purpose of giving effect in part to the settlement, and shall be construed accordingly.

Effect of Act

35. This Act shall have force and effect only to the extent that it is within the legislative jurisdiction of the Legislature.

Benefits not treated as income for purposes of other Acts

36.—(1) Notwithstanding any other Act of the Legislature, the benefits paid or payable to a member of a Band under the terms of the settlement shall not be considered or treated as income for the purposes of any other Act of the Legislature and no payment to which that member is entitled under any other Act of the Legislature shall be reduced by reason of the payment or availability of benefits to that member under the terms of the settlement.

Availability of programs or services not diminished

(2) The moneys paid to the Bands in accordance with the settlement and the benefits paid from the Fund to members of the Bands shall be considered as additional to any applicable program or service offered by the Government of Ontario, and the availability to the Bands and the members thereof of such program or service shall not be diminished by reason of the moneys paid under the settlement or the benefits paid from the Fund.

Insured services under R.S.O. 1980, c. 197

37. Every examination, service, test or report provided by, or at the direction of, an authorized physician in respect of an applicant in accordance with a requirement of the plan

document, the administrator or the Board shall be deemed to be an insured service under the *Health Insurance Act*.

38. For greater certainty, Ontario Supreme Court Action Number 14716/77 (Judicial District of York) shall be deemed to be a representative action, and its disposition in accordance with the settlement shall not be called into question in any court.

Representative
action

39. All existing and future rights of action of the Bands and of every past, existing or future member of the Bands, and the estates thereof, in respect of claims and causes of action which are the subject of the settlement are, in consideration of and pursuant to the settlement, abolished.

Existing and
future rights
of action
abolished

40.—(1) The total liability in respect of any claim by a past, present or future member of a Band or a registered Indian customarily resident on a reserve before the 1st day of October, 1985, brought against any party to the settlement in respect of matters contemplated by the settlement, whether brought before or after the Fund is closed, shall be not more than the cost, at the time of the claim, of a life annuity in the amount of the annual maximum benefit payable from the Fund at the time the claim was brought or immediately prior to the Fund being closed, as the case may be.

Limitation
on liability
in respect
of claims

(2) Section 33 and this section shall not be deemed to contemplate that any claim described in section 33, notwithstanding the other provisions of this Act, may be brought or maintained.

Does not
contemplate
claims may
be
brought

41. The settlement is entire and the consideration flowing to the Bands and their present and future members therefrom shall be deemed to flow to every such member, and the settlement shall not be deemed to be divided between the Bands and their present and future members by this Act or anything done under the authority of this Act.

Settlement
entire

42. The Lieutenant Governor in Council may make regulations prescribing, for the purposes of subsection 4 (5), the procedures to be followed in the collection of the costs of the Board and in the payment of the moneys received to the persons entitled thereto.

Regulations

43. The moneys required to be paid by Ontario in accordance with the terms of the settlement, including the payment of interest thereon where provided for in the settlement at the rate of 8.52 per cent per annum compounded annually from the 15th day of October, 1985, shall be paid out of the Consolidated Revenue Fund.

Moneys

Commence-
ment

44. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

45. The short title of this Act is the *English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act, 1986*.



Bill 76

*(Chapter 23
Statutes of Ontario, 1986)*

**An Act to implement the Terms of a Settlement
of all Claims arising out of the Contamination by
Mercury and other Pollutants of the
English and Wabigoon and Related River Systems**

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	June 11th, 1986
<i>2nd Reading</i>	June 26th, 1986
<i>3rd Reading</i>	June 26th, 1986
<i>Royal Assent</i>	July 7th, 1986

Bill 76

AN ACT TO AMEND THE CONSTITUTION OF THE PROVINCE OF ONTARIO

ENACTED BY THE LEGISLATURE OF THE PROVINCE OF ONTARIO IN THE 37TH YEAR OF HER MAJESTY'S SOVEREIGNTY

AS ENACTED BY THE LEGISLATURE OF THE PROVINCE OF ONTARIO IN THE 37TH YEAR OF HER MAJESTY'S SOVEREIGNTY

THE HON. J. B. BURNETT
SPEAKER OF THE LEGISLATURE

Printed by the Queen's Printer
Toronto, 1976

Bill 76**1986**

**An Act to implement the Terms of a Settlement
of all Claims arising out of the Contamination by
Mercury and other Pollutants of the
English and Wabigoon and Related River Systems**

WHEREAS the Government of Canada, the Government of Ontario, Reed Inc., Great Lakes Forest Products Ltd., The Islington Indian Band and The Grassy Narrows Indian Band have entered into a settlement of all claims and causes of action, past, present and future, arising out of the discharge by Reed Inc. and its predecessors of mercury and other pollutants into the English and Wabigoon and related river systems and the continuing presence of any such pollutants, including the continuing but now diminishing presence of methylmercury, in the related ecosystems since its initial identification in 1969; Preamble

AND WHEREAS the discharge of such pollutants and governmental actions taken in consequence thereof may have had and may continue to have effects in respect of the social and economic circumstances and the health of the present and future members of the Bands;

AND WHEREAS the Government of Canada and the Government of Ontario have assumed certain obligations under the settlement in favour of the Bands;

AND WHEREAS the settlement provides, among other things, for the payment of certain sums to each Band, for the establishment of The Grassy Narrows and Islington Bands Mercury Disability Board, the establishment of the Grassy Narrows and Islington Bands Mercury Disability Fund, the payment of benefits to Band members and, subject to certain exceptions contained in the settlement, the abolition of all existing and future rights of action of the Bands and of every past, present or future member of the Bands, and the estates thereof, in respect of any claims and causes of action that are the subject of the settlement, in consideration of the rights and benefits set out in the settlement;

AND WHEREAS it is expedient that the Legislature give effect to and implement the terms of the settlement;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“administrator” means a person authorized under this Act to administer the Fund in accordance with a plan document;

“applicant” means any member or past member of a Band who makes an application or on whose behalf an application is made and lodged with the administrator, and shall be deemed to include, as if a member of a Band, a registered Indian customarily resident on a reserve before the 1st day of October, 1985;

“application” means a written application, in prescribed form, of an applicant and includes a medical report in prescribed form from an authorized physician;

“authorized physician” means a physician entitled to practice medicine in any jurisdiction in Canada or the United States of America and designated as an authorized physician by the Board;

“award” means a decision of the Board to make available a benefit to an applicant in respect of an application and includes a determination by the administrator which has not been reviewed by the Board;

“Band” means The Islington Band of Indians or The Grassy Narrows Band of Indians and “the Bands” means both of them and includes, for the purposes of sections 36 and 39, a registered Indian customarily resident on a reserve before the 1st day of October, 1985;

“Band Council” means the Council of a Band;

“benefit” means the monetary amounts paid or payable by the administrator pursuant to an award and “maximum benefit” means the maximum monetary amounts payable in accordance with the terms of the settlement;

“Board” means The Grassy Narrows and Islington Bands Mercury Disability Board established by this Act;

“certificate” means a resolution of the Council of the Band of which an applicant is a member, setting forth such matters as the Board may prescribe;

“condition” means an observable medical symptom, sign or condition, or combination of related medical symptoms, signs or conditions which,

- (a) is a known condition, or
- (b) has been determined by the Board to constitute a condition, on the basis that it is reasonably consistent with mercury poisoning and capable of significantly impairing the quality of life or limiting the activities of an applicant, and “known condition” means any of the conditions specified as known conditions in the settlement;

“costs of the Board” means,

- (a) fees and disbursements payable to or incurred by or on behalf of the members of the Board in connection with their duties as members,
- (b) the personal expenses of an applicant awarded by the Board under section 29, and
- (c) the expenses incurred by the Board in consulting with professionally qualified persons under clause 6 (1) (b),

but does not include the fees and disbursements of a member who is a Band representative or of a member who is an employee of any other party to the settlement;

“depletion” means the total amount of reserves maintained by the administrator;

“disability” means a condition or combination of conditions observed by an authorized physician upon examination of an applicant;

“disbursements” means the costs of travel, accommodation, meals and communications reasonably incurred by or on behalf of members of the Board in connection with their duties as members;

“fiscal year” means the period from the 1st day of April in one year to the 31st day of March in the next year;

“Fund” means the Grassy Narrows and Islington Bands Mercury Disability Fund established by this Act;

“plan document” means the document or documents which define the responsibilities of the administrator and includes an agreement between the Board, or members of the Board, and the administrator, the schedules prescribing criteria for persons who may obtain assistance for disability and the levels of benefits, Neurological Grading Guidelines, Clinical Neurological Examination Protocol and the form of application prescribed by the Board;

“prescribed” means prescribed by the Board;

“reserve” means, as the context requires, the land set aside for the use and benefit of a Band or an amount designated by the administrator according to actuarial principles for the satisfaction of an award;

“settlement” means a settlement made in the public interest with the Bands, as set out in a Memorandum of Agreement signed by the parties thereto in the month of November, 1985, of disputes arising out of the discharge, by Reed Inc. and its predecessors, of mercury and any other pollutants into the English and Wabigoon and related river systems, and the effects which the discharge of such mercury and other pollutants and the continuing but now diminished presence of methylmercury in the related ecosystems may have had and may continue to have upon, and the concerns raised in respect of, the social and economic circumstances and the health of the present and future members of the Bands;

“undepleted balance” means the actual balance of the Fund including accrued income, less depletion.

Purpose
of Act

2. The purpose of this Act is to implement, to the extent that the legislative authority of the Legislature extends thereto, the terms of a settlement, subject to certain exceptions contained therein, of all claims, whether past, present or future, arising out of the contamination by mercury and other pollutants of the English and Wabigoon and related river systems, the terms of which settlement are embodied in a Memorandum of Agreement signed by the parties thereto in the month of November, 1985, made between Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development, Her Majesty the Queen in Right of the Province of Ontario, Reed Inc., Great Lakes Forest Products Ltd., The Islington Indian Band and The Grassy Narrows Indian Band.

3.—(1) A board to be known as “The Grassy Narrows and Islington Bands Mercury Disability Board” is hereby established. Board established

(2) The Board shall consist of seven members, composed of a chairman and, Composition of Board

- (a) two members, one of whom is a representative of one Band and one of whom is a representative of the other Band;
- (b) two members, each of whom is a duly qualified physician; and
- (c) two members who are not representatives or members of either Band or duly qualified physicians.

4.—(1) The chairman and other members of the Board shall be appointed by a search committee, constituted in accordance with the terms of the settlement, on such terms and conditions as the search committee agrees upon with each Board member. Appointment of Board members

(2) The chairman and other members of the Board may be replaced from time to time by the search committee, and every appointment or replacement must be the unanimous decision of the search committee and shall be certified in writing by each member of the committee. Appointments or replacements to be unanimous

(3) Pursuant to the settlement, Canada, Ontario, The Islington Indian Band and The Grassy Narrows Indian Band shall each pay 25 per cent of the costs of the Board. Costs of the Board

(4) Disbursements of the Board or of members of the Board, as the case may be, shall generally be in accordance with the levels from time to time in effect in respect of employees of Ontario. Level of disbursements

(5) The administrator shall, in accordance with the procedures prescribed by the regulations made under this Act, Collection of costs of Board by administrator

- (a) collect the costs of the Board from time to time from the parties liable therefor; and
- (b) pay the moneys when received to the persons entitled thereto.

(6) Neither the Board nor any member thereof is liable for any act done or decision made in good faith in relation to any aspect of its proceedings. Liability of Board

Panel for
decision
of Board

5. The chairman, the two Band representatives and two other members, designated for the purpose by the chairman, constitute a panel of the Board and are sufficient for the exercise of all the jurisdiction and powers of the Board in connection with the making of a decision by the Board.

Powers of
Board

6.—(1) The Board may,

- (a) consult with and obtain the assistance of any official of the Government of Canada or of Ontario who is able to provide information, advice or assistance to the Board in respect of public health, public health education or any government programs that the Board considers may touch upon the matter of mercury poisoning;
- (b) consult with such professionally qualified persons as the Board considers necessary;
- (c) make such recommendations as the Board considers appropriate to the Bands or to any minister of the Government of Canada or Ontario;
- (d) amend the plan document in accordance with subsection 22 (1);
- (e) amend, or with the consent of the Attorney General of Ontario, terminate an agreement with an administrator and enter into an agreement with another administrator;
- (f) have regard to the terms of the settlement for the purpose of interpreting and giving effect to this Act,

and shall,

- (g) supervise the administration of the Fund and make awards or supervise the making of awards by the administrator in accordance with this Act; and
- (h) designate from time to time as authorized physicians two or more physicians that the Board considers,
 - (i) have expert knowledge in respect of conditions consistent with methylmercury poisoning, and

- (ii) will be available and may be required for the purpose of providing medical reports in respect of applicants.

(2) The Board may,

Idem

- (a) prescribe the form of an application;
- (b) prescribe the contents of an affidavit that is to accompany an application;
- (c) prescribe the matters that are to be included in a certificate;
- (d) prescribe the form of medical report to be submitted with an application;
- (e) prescribe any other matter or thing that by this Act is to be or may be prescribed.

(3) The Board may, in its discretion, make an award that takes effect on a day not earlier than the day the application relating to the award was made.

Retroactive
application
of award

7. Where the Board considers that, after the date of the settlement,

Where
conduct
of applicant
to be
considered
by Board

- (a) the conduct of an applicant has contributed and is contributing to the continuation or exacerbation of a disability;
- (b) the applicant at the time of the conduct had an understanding of its possible effects; and
- (c) the conduct occurred under circumstances where the applicant knew or ought to have known that a practical alternative form of conduct without significant disadvantage was available,

the Board,

- (d) shall consider the conduct in making or reviewing an award and may establish or vary conditions in the award; and
- (e) may, where there are clear clinical grounds for concluding that the conduct has contributed to the continuation or exacerbation of the disability or where the Board finds that any condition attached to an award under clause (d) has been disregarded, make

or vary an award to provide a benefit in such lesser amount than would otherwise be provided as the Board considers appropriate.

Fund to be established

8.—(1) There shall be established and maintained a fund to be known as the Grassy Narrows and Islington Bands Mercury Disability Fund into which shall be deposited by each Band the sum of money set out in the settlement.

Agreement between Board and administrator

(2) The Board shall make use of the services of an administrator in the investment, management and administration of the Fund and shall, subject to the approval of the Attorney General of Ontario, enter into such agreement or agreements with any person as the Board considers necessary for that purpose.

Gifts or bequests

(3) The administrator may,

- (a) accept and administer as part of the Fund any unconditional gift or bequest from any person; and
- (b) with the approval of the Board, accept and administer in accordance with the conditions attached thereto, any conditional gift or bequest from any person.

When Board not to approve acceptance of gift or bequest

(4) The Board shall not approve the acceptance of any conditional gift or bequest if the Board considers that the conditions attached thereto are not consistent with the objects of this Act or the administration of the Fund.

Income forms part of Fund

(5) The income of the Fund shall form part of the Fund.

Benefits paid out of Fund

(6) Every benefit paid by the administrator under the authority of this Act shall be paid out of the Fund.

Fees and expenses of administrator

(7) The fees and approved expenses of the administrator as provided for in the plan document shall be paid out of the Fund.

Reserves

(8) The administrator shall, in respect of each award, set aside and maintain a reserve, determined and revised from time to time in accordance with actuarial principles, in the amount estimated to be required, together with the income thereon, to provide for the payment of benefits under the award.

When undepleted balance is less than \$100,000

(9) In the event that the undepleted balance is less than \$100,000 at any time, the administrator shall thereupon give notice thereof in writing to the Bands, the Treasurer of

Ontario and the Board and thereupon the Treasurer shall from time to time as required deposit to the Fund out of the Consolidated Revenue Fund such amount of money as is required to raise the undepleted balance to not less than \$100,000.

(10) The administrator shall provide for an audit of the Fund annually and at the end of each fiscal year shall provide a copy of the auditor's report to the Bands, the Attorney General of Ontario, the Treasurer of Ontario and the Board.

Audit of
Fund

9. An applicant may, at any time before the Fund is closed, submit an application in the prescribed form for assistance from the Fund in respect of disability which the applicant believes is caused by mercury poisoning.

Application
for
assistance

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- (d) such other material as the Board prescribes.

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Duties of
administrator
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the applicant and the Board in writing that the application is accepted and specify the benefit payable in accordance with the plan document;

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- (c) if unable to determine whether the application qualifies, or what is the benefit payable, in accordance with the plan document, or if the administrator believes that there is any reason for the application to be considered by the Board, transmit the application to the Board together with such questions for the Board's decision as the administrator considers appropriate, and advise the applicant in writing that the application has been transmitted to the Board.

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review
decision

16. An applicant or the Board or any member of the Board may, at any time after a determination by the administrator under clause 14 (a) or (b), by notice in writing to the Board or to the applicant or to the Board and the applicant respectively, require that the decision of the administrator be reviewed.

Powers of
Board

17. The Board shall, at its next meeting, or in any event within four months or, if more than two years after the coming into force of this Act, eight months after receipt of an application under clause 14 (c) or of notice under section 16, review the application and,

- (a) approve the application and make or confirm or vary an award; or
- (b) reject the application.

Provision
of benefits

18. When an application is subject to review under section 16, the administrator shall, pending receipt of the Board's decision, provide a benefit, or not, in accordance with the

determination made under section 14 and, if the determination is varied by the award of the Board, the administrator shall not give retroactive effect to the award unless expressly so directed by the Board's decision.

19. The chairman shall set forth and certify in writing every decision of the Board and shall incorporate in the decision the answer of the Board to any question submitted by the administrator under clause 14 (c), and shall provide a copy of the decision to the applicant and to the administrator.

Chairman to
certify
decision
of Board

20. The Board may in its sole discretion, at any time after giving notice to the applicant, on its own motion or upon request from an applicant or any member of the Board or the Attorney General of Ontario, review and vary any award.

Review by
Board

21.—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact and law that arise in any matter before it and, subject to sections 20 and 23, every decision of the Board is final and binding and is not subject to review and, subject to this Act, shall be given effect by the administrator.

Decision
final

(2) The *Statutory Powers Procedure Act* does not apply to the Board in its exercise of a statutory power of decision under this Act.

Non-
application
of
R.S.O. 1980,
c. 484

22.—(1) The Board shall not amend the plan document, except as provided for in subsection (2), without the consent of the Attorney General of Ontario, the Minister of Indian and Northern Affairs, Canada and the Band Councils.

Consent
required to
amend plan
document

(2) The Board may add any further condition to the plan document and assign points in respect of such condition in conformity with the distribution of points then in effect for other conditions.

Addition of
further
conditions
to plan
document

(3) Notwithstanding anything in this Act, the Board shall make or confirm or vary each award in such amount as it considers appropriate, having regard to the nature and extent of an applicant's disability, but shall not make any award in an amount greater than the maximum benefit.

Award to be
based on
nature and
extent of
disability

23. The Board shall establish its own procedure including, without limitation, the location of its meetings, and any applicant aggrieved by the procedure, even where the procedure prescribed by this Act has been followed, may request the Board to review an award under section 20.

Procedure

Evidence

24.—(1) The Board may make any decision without hearing any evidence but may, in its sole discretion, hear evidence under oath and every member of the Board may examine or cross-examine any person.

Applicant
may be
heard

(2) Any applicant may appear and be heard at any meeting of the Board at which his or her application or award is to be considered or reviewed, and the Board shall provide notice to each applicant accordingly.

Examination
of persons

25. No person other than a member of the Board may, except to the extent permitted by the Board in its sole discretion, examine or cross-examine any person at any meeting of the Board.

Report to be
considered

26. The Board shall consider, in respect of each condition manifested in the disability, the medical report of an authorized physician before making an award.

What Board
may consider

27. The Board shall consider any information, advice, report, evidence or other material or matter which, in its sole discretion, it deems useful for the purpose of deciding any matter including whether it may be appropriate to make or vary any award or awards, and may hear or, subject to subsection 24 (2), not hear any person.

No costs

28. The Board shall not award costs of any application.

Personal
expenses

29. The Board may, in its sole discretion, direct payment of all or part of the personal expenses of an applicant in connection with an application, whether or not the Board makes an award.

Quorum

30.—(1) The quorum of the Board shall be four of the panel established under section 5 and the decision of three or more members of the panel is the decision of the Board, and where a decision is not concurred in by three or more members of the Board,

- (a) in the case of a review brought under section 16, the decision of the administrator shall be deemed to be confirmed; and
- (b) in the case of an application transmitted under clause 14 (c), the application shall be deemed to be rejected.

Use of
telecommuni-
cations

(2) The Board may, with the consent of the members of the panel established under section 5 and, where applicable, of an applicant, conduct any meeting or make any decision by tele-

communications without the members being physically present in the same place.

(3) Other than for the purposes of section 32 and subject to subsection (4) of this section, not more than five members shall participate in any decision of the Board.

Five members only to participate in decision

(4) Notwithstanding section 5, the chairman may, if the nature of any decision appears to justify the consequent cost, establish a panel of all members of the Board, in which event the quorum shall be six and the decision of four or more members is the decision of the Board, and where a decision is not concurred in by four or more members of the Board,

Exception

(a) in the case of a review brought under section 16, the decision of the administrator shall be deemed to be confirmed; and

(b) in the case of an application transmitted under clause 14 (c), the application shall be deemed to be rejected.

31. Any member of the Board may assist an applicant in the preparation or submission of an application to the administrator or before the Board and shall not, by reason thereof, be disqualified from participating in the decision of the Board.

Assistance to applicant by Board member

32.—(1) The Fund may be terminated and closed by the Board after the expiry of three consecutive years from the date of the last award or variation of an award, but in any event not sooner than the 1st day of January, 2001, and with the consent of at least six members of the Board.

Termination of Fund

(2) The Board shall, before consenting to the Fund being closed, provide to the Minister of Indian and Northern Affairs, Canada, the Attorney General of Ontario and each of the Bands a report in respect of the efficacy of the Fund in achieving the objects of this Act.

Report of Board

(3) Upon the Board consenting to the Fund being closed,

Duty of administrator

(a) the administrator shall, if then possible, purchase from the balance of the Fund for every applicant then in receipt of a benefit a life annuity in the amount of the annual benefit or, if not then possible, do so as soon as it becomes possible, and thereupon advise the Board that the Fund is closed; and

(b) the administrator shall thereupon pay, to the extent of any balance of the Fund remaining, first to the

Treasurer of Ontario the total of any amounts paid by the Treasurer under subsection 8 (9), and then to each Band one-half of any balance remaining.

Board dissolved

(4) Upon the acceptance by the Attorney General of Ontario of the report provided for in subsection (2) and completion of the payments by the administrator provided for in subsection (3), the Board shall be dissolved.

Indemnification of Treasurer of Ontario

33. The Treasurer of Ontario shall be deemed to be and hereafter continue to be indemnified by each of the Bands, to the extent of any amounts paid to each Band under clause 32 (3) (b) together with interest calculated on such payments at a rate equal to the Consumer Price Index for Canada published by Statistics Canada, against liability for any claim by a person who would have been eligible to be an applicant but for the termination of the Fund brought against any party to the settlement in respect of the matters contemplated by the settlement.

Reciprocal legislation by Canada

34. This Act is enacted in contemplation of a reciprocal enactment by the Parliament of Canada for the purpose of giving effect in part to the settlement, and shall be construed accordingly.

Effect of Act

35. This Act shall have force and effect only to the extent that it is within the legislative jurisdiction of the Legislature.

Benefits not treated as income for purposes of other Acts

36.—(1) Notwithstanding any other Act of the Legislature, the benefits paid or payable to a member of a Band under the terms of the settlement shall not be considered or treated as income for the purposes of any other Act of the Legislature and no payment to which that member is entitled under any other Act of the Legislature shall be reduced by reason of the payment or availability of benefits to that member under the terms of the settlement.

Availability of programs or services not diminished

(2) The moneys paid to the Bands in accordance with the settlement and the benefits paid from the Fund to members of the Bands shall be considered as additional to any applicable program or service offered by the Government of Ontario, and the availability to the Bands and the members thereof of such program or service shall not be diminished by reason of the moneys paid under the settlement or the benefits paid from the Fund.

Insured services under R.S.O. 1980, c. 197

37. Every examination, service, test or report provided by, or at the direction of, an authorized physician in respect of an applicant in accordance with a requirement of the plan

document, the administrator or the Board shall be deemed to be an insured service under the *Health Insurance Act*.

38. For greater certainty, Ontario Supreme Court Action Number 14716/77 (Judicial District of York) shall be deemed to be a representative action, and its disposition in accordance with the settlement shall not be called into question in any court.

Representative action

39. All existing and future rights of action of the Bands and of every past, existing or future member of the Bands, and the estates thereof, in respect of claims and causes of action which are the subject of the settlement are, in consideration of and pursuant to the settlement, abolished.

Existing and future rights of action abolished

40.—(1) The total liability in respect of any claim by a past, present or future member of a Band or a registered Indian customarily resident on a reserve before the 1st day of October, 1985, brought against any party to the settlement in respect of matters contemplated by the settlement, whether brought before or after the Fund is closed, shall be not more than the cost, at the time of the claim, of a life annuity in the amount of the annual maximum benefit payable from the Fund at the time the claim was brought or immediately prior to the Fund being closed, as the case may be.

Limitation on liability in respect of claims

(2) Section 33 and this section shall not be deemed to contemplate that any claim described in section 33, notwithstanding the other provisions of this Act, may be brought or maintained.

Does not contemplate claims may be brought

41. The settlement is entire and the consideration flowing to the Bands and their present and future members therefrom shall be deemed to flow to every such member, and the settlement shall not be deemed to be divided between the Bands and their present and future members by this Act or anything done under the authority of this Act.

Settlement entire

42. The Lieutenant Governor in Council may make regulations prescribing, for the purposes of subsection 4 (5), the procedures to be followed in the collection of the costs of the Board and in the payment of the moneys received to the persons entitled thereto.

Regulations

43. The moneys required to be paid by Ontario in accordance with the terms of the settlement, including the payment of interest thereon where provided for in the settlement at the rate of 8.52 per cent per annum compounded annually from the 15th day of October, 1985, shall be paid out of the Consolidated Revenue Fund.

Moneys

Commence-
ment

44. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

45. The short title of this Act is the *English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act, 1986*.



Bill 77

An Act to revise the Representation Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading June 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill, in accordance with the Report on redistribution presented by the Ontario Electoral Boundaries Commission, increases the number of members in the Legislative Assembly from 125 to 130, one member to be returned from each electoral district described in the Schedule, and will take effect following the first dissolution of the Legislature that occurs after the 31st day of August, 1986. The appointment of returning officers under the *Election Act, 1984* and the registration of constituency associations under the *Election Finances Reform Act*, in accordance with the new electoral districts described in the Bill, may, however, commence upon the Bill receiving Royal Assent.

Bill 77

1986

An Act to revise the Representation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The boundaries of every territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward in any municipality shall for the purpose of this Act be deemed to be the boundaries of such territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward as defined by statute, by-law, proclamation or other lawful authority on the 6th day of January, 1986. Boundaries
2. The Legislative Assembly of Ontario shall consist of one hundred and thirty members. Number of members
- 3.—(1) Ontario shall, for the purpose of representation in the Assembly, be divided into electoral districts as set out in the Schedule. Division of Ontario into electoral districts
- (2) One member shall be returned to the Assembly for each electoral district. One member per electoral district
4. The boundaries of the electoral districts as set out in the Schedule shall not be affected by alterations in municipal or ward boundaries made after the 6th day of January, 1986. Changes in municipal or ward boundaries
5. Where a county, city, town, village, township, improvement district, borough, district municipality or regional municipality becomes incorporated and is not expressly included in an electoral district set out in the Schedule but is situated in part in two or more of such electoral districts, the electors entitled to vote in such municipality are entitled to vote in the electoral district in which they would have been entitled to vote if the county, city, town, village, township, improvement district, borough, district municipality or regional municipality had not become incorporated. Municipalities on boundary lines

Augmen-
tation
or gores of
townships

6. Except as otherwise expressly set out in the Schedule, every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situated.

Municipalities
included in
electoral
district in
which situate

7. Every county, city, town, village, township, improvement district, borough, district municipality and regional municipality heretofore or hereafter incorporated, situate wholly within an electoral district as set out in the Schedule and not expressly included in any other electoral district in the Schedule, shall form part of the electoral district in which it is situate.

Special Act
overruled

8. Every county, city, town, village, township, improvement district, borough, district municipality or regional municipality that by the provisions of any special Act passed before this Act comes into force forms or forms part of an electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule.

Repeal

9. The *Representation Act*, being chapter 450 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

10.—(1) This Act comes into force and has effect upon the first dissolution of the Legislature that occurs after the 31st day of August, 1986.

Idem
1984, c. 54

R.S.O. 1980,
c. 134

(2) Notwithstanding subsection (1), for the purposes only of the appointment of returning officers under the *Election Act, 1984* and the registration of constituency associations under the *Election Finances Reform Act*, and matters ancillary thereto, to be in effect for the purposes of an election held after the dissolution of the Legislature specified in subsection (1), the electoral districts set out in the Schedule shall be deemed to be established on the day this Act receives Royal Assent.

Short title

11. The short title of this Act is the *Representation Act, 1986*.

SCHEDULE

In the following descriptions,

- (a) a reference to a road, water feature or railway line signifies the centre line of the road, water feature or railway line, unless otherwise provided;
- (b) a reference to a territorial division or a municipality refers to the territorial division or municipality as it existed on the 6th day of January, 1986; and
- (c) every city, town, village, township, improvement district, development area and Indian reserve lying within the perimeter of an electoral district is included in the electoral district unless otherwise provided.

ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA—consists of that part of the Territorial District of Algoma, but excluding the geographic townships of Ebbs and Templeton, lying northerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Redden; thence westerly along the south boundary of the geographic townships of Redden, Prescott, Plourde, Piche, Viel and Sagard to the northeast corner of the geographic Township of Nicholas; thence southerly along the east boundary of the geographic Township of Nicholas to the northwest corner of the Town of Elliot Lake; thence southerly along the west limit of the Town of Elliot Lake to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of that township to the southerly boundary of the Territorial District of Algoma; thence westerly along that boundary to the easterly limit of the City of Sault Ste. Marie; thence northerly along the easterly boundary of the City of Sault Ste. Marie to the northeast corner thereof; thence westerly along the north boundary of that city to the northwest corner thereof; thence southerly along the east boundary of the Township of Prince to the southeast corner thereof; thence westerly along the south boundary of the Township of Prince to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—consists of the Territorial District of Manitoulin and that part of the territorial districts of Algoma and Sudbury lying within the following limits: Commencing at the intersection of the southerly boundary of the Territorial District of Sudbury with the east boundary of the geographic Township of Curtin; thence northerly along the east boundary of the geographic townships of Curtin and Foster to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Foster and Merritt to the northeast corner of the Town of Espanola; thence westerly along the north boundary of the said town to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Merritt to the southeast corner of the geographic Township of Shakespeare; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the southeast corner of the geographic Township of Tennyson; thence northerly along the east boundary of the geographic townships of Tennyson, Boon, Mandamin and Strain to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Strain, Teasdale, Poncet, Hughson, Hembruff and Raimbault to the northwest corner of the last mentioned township; thence southerly along the west boundary of the said township to the northwest corner of the Town of Elliott Lake; thence southerly along the west limit of the said town to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of the said township to the southerly boundary of the Territorial District of Algoma; thence easterly along the southerly boundary of the territorial districts of Algoma and Sudbury to the point of commencement.

THE ELECTORAL DISTRICT OF ARMOURDALE—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Yonge Street with the northerly limit of the City of North York; thence easterly along the said limit to Leslie Street; thence southerly along Leslie Street to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Bathurst Street; thence northerly along Bathurst Street to Finch Avenue West; thence easterly along Finch Avenue West to Yonge Street; thence northerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF BEACHES-WOODBINE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Queen Street East with Greenwood Avenue; thence northerly along Greenwood Avenue to the Canadian National railway line; thence northeasterly along the said railway line to Coxwell Avenue; thence northerly along Coxwell Avenue to the northerly limit of the City of Toronto; thence easterly along the said limit to the easterly limit of the said city; thence southerly along the said limit to the southeasterly corner of the City of Toronto; thence westerly along the southerly limit of the said city to the southerly prolongation of Leslie Street; thence northerly along the said prolongation to and along Leslie Street to Queen Street East; thence easterly along Queen Street East to the point of commencement.

THE ELECTORAL DISTRICT OF BRAMPTON NORTH—consists of that part of the City of Brampton lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRAMPTON SOUTH—consists of that part of the City of Brampton lying southerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRANTFORD—consists of the City of Brantford.

THE ELECTORAL DISTRICT OF BRANT-HALDIMAND—consists of the County of Brant but excluding the City of Brantford; the towns of Dunnville and Haldimand, Indian reserves No. 40 and No. 40A, and the Township of North Dumfries but excluding that part lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF BRUCE—consists of the County of Bruce.

THE ELECTORAL DISTRICT OF BURLINGTON SOUTH—consists of that part of the City of Burlington lying southerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; thence southeasterly along the said limit to New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeast-

erly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington.

THE ELECTORAL DISTRICT OF CAMBRIDGE—consists of the City of Cambridge and of that part of the Township of North Dumfries lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF CARLETON—consists of the City of Kanata and the townships of Goulbourn, Osgoode, Rideau and West Carleton.

THE ELECTORAL DISTRICT OF CARLETON EAST—consists of the Village of Rockcliffe Park and of that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the Queensway; thence easterly along the Queensway to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence southwesterly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park; thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence easterly along the said Interprovincial Boundary to the northeasterly corner of the City of Gloucester; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of Gloucester to the northwesterly corner of the said city; thence easterly along the northerly limit of the City of Gloucester to the westerly limit of the Ottawa International Airport; thence southerly along the said limit to Leitrim Drive; thence easterly along Leitrim Drive to Albion Road; thence northerly along Albion Road to Leitrim Road; thence easterly along Leitrim Road to the King's Highway No. 31; thence northerly along said Highway to Conroy Road; thence northerly along Conroy Road to the southerly limit of the City of Ottawa; thence easterly and northerly along the southerly and easterly limits of the City of Ottawa to the point of commencement.

THE ELECTORAL DISTRICT OF CHATHAM-KENT—consists of the City of Chatham, the towns of Bothwell, Dresden and Wallaceburg and the townships of Camden, Chatham, Dover and Zone.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—consists of the geographic townships of Ebbs and Templeton; that part of the Territorial District of Cochrane lying northerly and westerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teffy; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid; and that part of the Territorial District of Kenora lying easterly of a line described as follows: Commencing at the northerly extremity of the boundary

between the territorial districts of Cochrane and Thunder Bay; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—consists of that part of the Territorial District of Cochrane lying southerly and easterly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teefy; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid.

THE ELECTORAL DISTRICT OF CORNWALL—consists of the City of Cornwall, the townships of Charlottenburgh and Cornwall, and Indian Reserve No. 59.

THE ELECTORAL DISTRICT OF DON MILLS—consists of that part of the City of North York and of the Borough of East York lying within the following limits: Commencing at the intersection of Lawrence Avenue East with the easterly limit of the City of North York; thence southerly along the easterly limit of the City of North York and of the Borough of East York to the southerly limit of the said borough; thence westerly along the said southerly limit to Chisholm Avenue; thence northerly along Chisholm Avenue and its northerly prolongation to Taylor Creek; thence northwesterly along Taylor Creek to the Don River; thence westerly along the Don River to Don Mills Road; thence northerly along Don Mills Road to the southerly limit of the City of North York; thence northwesterly, westerly and northerly along the said limit to the easterly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence easterly on the easterly prolongation of the said course to the Don River West Branch; thence southeasterly along the Don River West Branch to the westerly prolongation of Lawrence Avenue East; thence easterly along the said prolongation to and along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF DOVERCOURT—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the southerly limit of the City of York with Bathurst Street; thence southerly along Bathurst Street to Bloor Street West; thence westerly along Bloor Street West to the Canadian National railway line situated immediately west of Helens Avenue; thence northerly along the said railway line to St. Clair Avenue West; thence westerly along St. Clair Avenue West to the Canadian National railway line situated immediately northeast of Weston Road; thence northwesterly along the said railway line to the northerly limit of the City of Toronto; thence easterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DOWNSVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence easterly along the said limit to Dufferin Street; thence southerly along Dufferin

Street to Allen Road; thence southerly along Allen Road to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

THE ELECTORAL DISTRICT OF DUFFERIN-PEEL—consists of the County of Dufferin and the Town of Caledon.

THE ELECTORAL DISTRICT OF DURHAM CENTRE—consists of that part of the Town of Whitby lying southerly of Taunton Road and that part of the City of Oshawa lying within the following limits: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence westerly along Taunton Road to the westerly limit of the City of Oshawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DURHAM EAST—consists of that part of the City of Oshawa lying northerly of Taunton Road, that part of the Town of Whitby lying northerly of Taunton Road, the Town of Newcastle, the townships of Manvers and Scugog and Indian Reserve No. 34.

THE ELECTORAL DISTRICT OF DURHAM WEST—consists of the towns of Ajax and Pickering.

THE ELECTORAL DISTRICT OF EGLINTON—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Latimer Avenue; thence northerly along Latimer Avenue to Roselawn Avenue; thence easterly along Roselawn Avenue to Castlewood Road; thence northerly along Castlewood Road to Briar Hill Avenue; thence westerly along Briar Hill Avenue to the southerly prolongation of the course in the northerly limit of the City of Toronto oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence northerly along the said prolongation to the northerly limit of the City of Toronto; thence northerly, easterly and southerly along the said limit to the westerly limit of the Borough of East York; thence southerly along the said limit to the southerly limit of Mount Pleasant Cemetery; thence westerly along the said limit to Yonge Street; thence northerly along Yonge Street to the abandoned Canadian National railway line situated immediately south of Merton Street; thence northwesterly along the said railway line to the southerly prolongation of Duncannon Drive; thence northerly along the said prolongation to and along Duncannon Drive to Eglinton Avenue West; thence westerly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ELGIN—consists of the County of Elgin.

THE ELECTORAL DISTRICT OF ESSEX-KENT—consists of the towns of Belle River, Blenheim, Ridgetown and Tilbury, the villages of Erie Beach, Eriau, Highgate, Thamesville and Wheatley, and the townships of Harwich, Howard, Maidstone, Orford, Raleigh, Rochester, Romney, Sandwich South, Tilbury East, Tilbury North and Tilbury West.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—consists of the towns of Amherstburg, Essex, Harrow, Kingsville and Leamington, and the townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee.

THE ELECTORAL DISTRICT OF ETOBICOKE-HUMBER—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of Bloor Street West with Kipling Avenue; thence northerly along Kipling Avenue to The Westway; thence westerly along The Westway to Martin

Grove Road; thence northerly along Martin Grove Road to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Etobicoke; thence southeasterly along the said limit to Bloor Street West; thence westerly along Bloor Street West to the point of commencement.

THE ELECTORAL DISTRICT OF ETOBICOKE-LAKESHORE—consists of that part of the City of Etobicoke lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Etobicoke with the Canadian Pacific railway line; thence northeasterly along the said railway line to Kipling Avenue; thence northerly along Kipling Avenue to Bloor Street West; thence easterly along Bloor Street West to the easterly limit of the City of Etobicoke.

THE ELECTORAL DISTRICT OF ETOBICOKE-REXDALE—consists of that part of the City of Etobicoke lying northerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF ETOBICOKE WEST—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of the Canadian Pacific railway line with the westerly limit of the City of Etobicoke; thence northerly along the said limit to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to Martin Grove Road; thence southerly along Martin Grove Road to The Westway; thence easterly along The Westway to Kipling Avenue; thence southerly along Kipling Avenue to the Canadian Pacific railway line; thence southwest-erly along the said railway line to the point of commencement.

THE ELECTORAL DISTRICT OF FORT WILLIAM—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn on a course of south astronomic from the southwest corner of the geographic Township of Devon; thence north astronomically along the said line to the southwest corner of the said township; thence northerly along the west boundary of the geographic townships of Devon, Fraleigh, Lybster and Marks to the northwest corner of the last mentioned township; thence easterly along the north boundary of the geographic Township of Marks to the northwest corner of the Township of O'Connor; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the Township of O'Connor to the northwest corner of the Township of Paipoonge; thence easterly along the north boundary of the said township to the northeast corner thereof; thence easterly along the north boundary of the former Township of Neebing and of the former City of Fort William, both as existing prior to January 1, 1970, to the Lakehead Expressway; thence northerly along the Lakehead Expressway to the Harbour Access Route; thence easterly along the Harbour Access Route to Golf Links Road; thence southerly along Golf Links Road to the north limit of the former City of Fort William, as existing prior to January 1, 1970; thence easterly along the said limit and its easterly prolongation to the line of longitude 89° 00'; thence south astronomically along the said line of longitude to the International Boundary between Canada and the United States of America; thence southwesterly and westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF FORT YORK—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Ossington Avenue with Bloor Street West; thence easterly along Bloor Street West to Bathurst Street; thence southerly along Bathurst Street to College Street; thence easterly along College Street to Carlton Street; thence easterly along Carlton Street to Sherbourne Street; thence southerly along Sherbourne Street and its southerly prolongation to the water's edge of Inner Harbour;

thence easterly along the said water's edge to the northerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence southerly along the said prolongation to and along the said centre line to the southerly extremity thereof; thence southerly along the prolongation of the said centre line to the southerly limit of the City of Toronto; thence westerly and north-westerly along the southerly and southwesterly limits of the said city to the southerly prolongation of Strachan Avenue; thence northerly along the said prolongation to and along Strachan Avenue to the Gardiner Expressway; thence westerly along the Gardiner Expressway to the southerly prolongation of Atlantic Avenue; thence northerly along the said prolongation to and along Atlantic Avenue to King Street West; thence easterly along King Street West to the southerly prolongation of Dovercourt Road; thence northerly along the said prolongation to and along Dovercourt Road to College Street; thence easterly along College Street to Ossington Avenue; thence northerly along Ossington Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—consists of that part of the County of Frontenac lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the Township of Pittsburgh with the Macdonald-Cartier Freeway; thence southwesterly along the Macdonald-Cartier Freeway to the northerly limit of the City of Kingston; thence westerly and southerly along the northerly and westerly limits of the City of Kingston to the shore of Lake Ontario; thence westerly along the said shore to the westerly boundary of the Township of Kingston; and that part of the County of Lennox and Addington lying northerly of a line described as follows: Commencing at the southeasterly corner of the Township of Camden East; thence westerly along the southerly boundary of the Township of Camden East to the southeasterly corner of the Village of Newburgh; thence westerly along the southerly limit of the said village to the southerly boundary of the Township of Camden East; thence westerly along the southerly limit of the said township to the southwesterly corner thereof; thence northerly along the westerly boundary of the said township to the northeasterly corner of the Township of Richmond.

THE ELECTORAL DISTRICT OF GREY—consists of the County of Grey.

THE ELECTORAL DISTRICT OF GUELPH—consists of the City of Guelph.

THE ELECTORAL DISTRICT OF HALTON CENTRE—consists of that part of the City of Burlington lying northerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; and that part of the Town of Milton lying southerly of Derry Road; and that part of the Town of Oakville lying northerly of the Queen Elizabeth Way.

THE ELECTORAL DISTRICT OF HALTON NORTH—consists of the Town of Halton Hills and that part of the Town of Milton lying northerly of Derry Road.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Queen Street with King Street; thence westerly along King Street to Chedoke Expressway; thence northerly along Chedoke Expressway to the Desjardins Canal; thence westerly along said canal to the westerly limit of the City of Hamilton; thence northerly and easterly along the westerly and northerly limits of the said city to the northerly prolongation of Sherman Avenue; thence southerly along the said prolongation to and along Sherman Avenue to Cannon Street; thence easterly along Cannon Street to Gage Avenue; thence southerly along Gage Avenue and its southerly prolongation to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly

prolongation of Queen Street; thence northerly along the said prolongation to and along Queen Street to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON EAST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with Queenston Road; thence westerly along Queenston Road to Redhill Creek; thence southerly along Redhill Creek to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly prolongation of Gage Avenue; thence northerly along the said prolongation to and along Gage Avenue to Cannon Street; thence westerly along Cannon Street to Sherman Avenue; thence northerly along Sherman Avenue and its northerly prolongation to the northerly limit of the City of Hamilton; thence easterly along the northerly limit of the said city to the northeasterly corner thereof; thence southerly along the easterly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON MOUNTAIN—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the southerly limit of the City of Hamilton with Upper James Street; thence northerly along Upper James Street to Fennell Avenue; thence easterly along Fennell Avenue to Upper Wellington Street; thence northerly along Upper Wellington Street and its northerly prolongation as aligned between Inverness Avenue and Concession Avenue to the brow of Hamilton Mountain; thence easterly along the said brow to the easterly limit of the City of Hamilton; thence southerly and westerly along the easterly and southerly limits of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON WEST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Upper James Street with the southerly limit of the City of Hamilton; thence westerly and northerly along the southerly and westerly limits of the said city to the Desjardins Canal; thence easterly along the said canal to the Chedoke Expressway; thence southerly along the Chedoke Expressway to King Street; thence easterly along King Street to Queen Street; thence southerly along Queen Street and its southerly prolongation to the brow of Hamilton Mountain; thence easterly along the said brow to the northerly prolongation of Upper Wellington Street as aligned between Inverness Avenue and Concession Avenue; thence southerly along the said prolongation to and along Upper Wellington Street to Fennell Avenue; thence westerly along Fennell Avenue to Upper James Street; thence southerly along Upper James Street to the point of commencement.

THE ELECTORAL DISTRICT OF HASTINGS-PETERBOROUGH—consists of that part of the County of Hastings lying northerly of a line described as follows: Commencing at the southwesterly corner of the Township of Rawdon; thence easterly along the southerly boundary of the said township to the westerly limit of the Village of Stirling; thence southerly, easterly and northerly along the westerly, southerly and easterly limits of the said village to the southerly boundary of the Township of Rawdon; thence easterly along the said boundary to the southwesterly corner of the Township of Huntingdon; thence easterly along the southerly boundary of the said township to the southwesterly corner of the Township of Hungerford; thence easterly along the southerly boundary of the said township to the southeasterly corner thereof; and the villages of Havelock, Lakefield and Norwood, and the townships of Asphodel, Belmont and Methuen, Burleigh and Anstruther, Chandos, Douro, Dummer, Galway and Cavendish, Harvey, and Otonabee.

THE ELECTORAL DISTRICT OF HIGH PARK-SWANSEA—consists of that part of the City of Toronto lying westerly of a line described as follows: Commencing at the intersection of the northerly limit of the City of Toronto with the Canadian National railway line situated immediately northeast of Weston Road; thence

southeasterly along the said railway line to St. Clair Avenue West; thence easterly along St. Clair Avenue West to the Canadian National railway line situated immediately west of Caledonia Park Road; thence southerly along the said railway line to Bloor Street West; thence westerly along Bloor Street West to Dundas Street West; thence southerly along Dundas Street West to Roncesvalles Avenue; thence southerly along Roncesvalles Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto.

THE ELECTORAL DISTRICT OF HURON—consists of the County of Huron.

THE ELECTORAL DISTRICT OF KENORA—consists of that part of the Territorial District of Kenora lying northerly and westerly of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the southwest corner of the geographic Township of Wainwright; thence easterly along the south boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east limits of the said township to the south boundary of the geographic Township of Brownridge; thence easterly along the south boundary of the geographic townships of Brownridge, Laval and McAree to the southeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay; thence northerly along the said boundary to the northwesterly corner of the Territorial District of Thunder Bay; thence continuing northerly along a meridian line to the 215 + 78.207 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1957; thence north astronomically to the Interprovincial Boundary between Ontario and Manitoba.

THE ELECTORAL DISTRICT OF KINGSTON AND THE ISLANDS—consists of the City of Kingston, the townships of Amherst Island, Howe Island, and Wolfe Island, and that part of the Township of Pittsburgh lying southerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF KITCHENER—consists of that part of the City of Kitchener lying northerly and westerly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF KITCHENER-WILMOT—consists of the Township of Wilmot and that part of the City of Kitchener lying southerly and easterly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF LAKE NIPIGON—consists of the community of English River in the Territorial District of Kenora and that part of the territorial districts of Kenora and Thunder Bay lying within the following limits: Commencing at the 215 + 78.207 Mile Post planted on a meridian line in the Territorial District of Kenora surveyed by A. Tarvydas, O.L.S., in 1957; thence southerly along that meridian line to the northerly extremity of the west boundary of the Territorial District of Thunder Bay; thence southerly along the said boundary to the International Boundary between Canada and the United States of America; thence easterly along the said International Boundary to the intersection with a line drawn south astronomic from the southeast corner of the geographic Township of Hartington; thence north astronomically along that line to the southeast corner of the geographic Township of Hartington;

thence northerly along the east boundary of the geographic townships of Hartington, Lismore, Strange, Aldina, Sackville, Laurie and Blackwell to the northeast corner of the last mentioned township; thence easterly along the south boundary of the geographic Township of Soper and of Block 1 to the southeast corner of Block 1; thence northerly along the east boundary of Block 1 to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the said township to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along that centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence northeasterly and southeasterly along the said International Boundary to the southeast corner of the Territorial District of Thunder Bay; thence northerly, westerly and northerly along the east boundary of the Territorial District of Thunder Bay to the northeast corner thereof; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay; thence northwesterly along the said shore to the Interprovincial Boundary between Ontario and Manitoba; thence southwesterly along the said Interprovincial Boundary to the intersection with a line drawn north astronomic from the point of commencement; thence south astronomically along the said line to the point of commencement.

THE ELECTORAL DISTRICT OF LAMBTON—consists of that part of the County of Lambton lying southerly and easterly of a line described as follows: Commencing at the southwesterly corner of Indian Reserve No. 45; thence easterly along the southerly boundary of Indian Reserve No. 45 to the southeasterly corner thereof; thence northerly along the easterly limit of Indian Reserve No. 45 to the easterly limit of the City of Sarnia; thence northerly along the said limit to Confederation Street; thence easterly along Confederation Street to Modeland Road; thence northerly along Modeland Road and its northerly prolongation to the northerly boundary of the Township of Sarnia.

THE ELECTORAL DISTRICT OF LANARK-RENFREW—consists of the County of Lanark, the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF LAWRENCE—consists of that part of the City of North York lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of North York with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Allen Road; thence southerly along Allen Road to the westerly prolongation of Baycrest Avenue; thence easterly along the said prolongation to and along Baycrest Avenue to Bathurst Street; thence southerly along Bathurst Street to Old Orchard Grove; thence easterly along Old Orchard Grove to the southerly limit of the City of North York.

THE ELECTORAL DISTRICT OF LEEDS-GRENVILLE—consists of the County of Leeds, the Town of Prescott, the Village of Merrickville and the townships of Augusta and Wolford.

THE ELECTORAL DISTRICT OF LINCOLN—consists of the towns of Grimsby, Lincoln and Pelham, the Township of West Lincoln, and that part of the City of St.

Catharines lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of St. Catharines with Twelve Mile Creek; thence northerly along Twelve Mile Creek to the Queen Elizabeth Way; thence westerly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West; thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON CENTRE—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to Huron Street; thence easterly along Huron Street to Clarke Side Road; thence southerly along Clarke Side Road and its southerly prolongation to the limit between the City of London and the Township of Westminster; thence westerly and southerly along the said limit to Commissioners Road; thence westerly along Commissioners Road to the Canadian National railway line; thence northwesterly along the said railway line to the easterly prolongation of Base Line Road; thence westerly to and along Base Line Road to Wharncliffe Road South; thence northerly along Wharncliffe Road South to the Thames River; thence easterly along the said river to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON NORTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London; thence westerly and southerly along the northerly and westerly limits of the said city to the Thames River; thence easterly along the Thames River to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON SOUTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of the westerly limit of the City of London with the Thames River; thence easterly along the Thames River to Wharncliffe Road South; thence southerly along Wharncliffe Road South to Base Line Road; thence easterly along Base Line Road and its easterly prolongation to the Canadian National railway line; thence southeasterly along the Canadian National railway line to Commissioners Road; thence easterly along Commissioners Road to the easterly limit of the City of London; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of London to the point of commencement.

THE ELECTORAL DISTRICT OF MARKHAM—consists of the Town of Markham.

THE ELECTORAL DISTRICT OF MIDDLESEX—consists of the County of Middlesex and Indian reserves No. 41 and No. 42 but excluding that part of the City of London lying westerly of a line described as follows: Commencing at the intersection of the Thames River with the southerly prolongation of Clarke Side Road; thence northerly to and along Clarke Side Road to Huron Street; thence westerly along Huron Street to Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London.

THE ELECTORAL DISTRICT OF MISSISSAUGA EAST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of Eglinton Avenue East with the easterly limit of the City of Mississauga; thence southerly along the easterly limit of the said city to Dundas Street East; thence southwesterly along Dundas Street East to Cawthra Road; thence southeasterly along Cawthra Road to the Queen Elizabeth Way;

thence southwesterly along the Queen Elizabeth Way to Hurontario Street; thence northwesterly along Hurontario Street to Central Parkway East; thence easterly and northerly along Central Parkway East to Burnhamthorpe Road East; thence northeasterly along Burnhamthorpe Road East to Cawthra Road; thence northwesterly along Cawthra Road to Eglinton Avenue East; thence northeasterly along Eglinton Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF MISSISSAUGA NORTH—consists of that part of the City of Mississauga lying northerly of Eglinton Avenue.

THE ELECTORAL DISTRICT OF MISSISSAUGA SOUTH—consists of that part of the City of Mississauga lying southerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Mississauga with the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to Cawthra Road; thence northwesterly along Cawthra Road to Dundas Street East; thence northeasterly along Dundas Street East to the easterly limit of the City of Mississauga.

THE ELECTORAL DISTRICT OF MISSISSAUGA WEST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of the westerly limit of the City of Mississauga with Eglinton Avenue West; thence northeasterly along Eglinton Avenue West and Eglinton Avenue East to Cawthra Road; thence southeasterly along Cawthra Road to Burnhamthorpe Road East; thence southwesterly along Burnhamthorpe Road East to Central Parkway East; thence southerly and westerly along Central Parkway East to Hurontario Street; thence southeasterly along Hurontario Street to the Queen Elizabeth Way; thence southwesterly along the Queen Elizabeth Way to the westerly limit of the City of Mississauga; thence northwesterly, southwesterly and northwesterly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF MUSKOKA-GEORGIAN BAY—consists of The District Municipality of Muskoka, the Town of Midland, the villages of Port McNicoll and Victoria Harbour and the townships of Matchedash and Tay.

THE ELECTORAL DISTRICT OF NEPEAN—consists of that part of the City of Nepean lying southerly and westerly of a line described as follows: Commencing at the intersection of the Rideau River with Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the northerly limit of the City of Nepean.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—consists of that part of the City of Niagara Falls lying northerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Willoughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NIAGARA SOUTH—consists of the City of Port Colborne, the Town of Fort Erie, the Township of Wainfleet, and that part of the City of Niagara Falls lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Willoughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NICKEL BELT—consists of that part of the Territorial District of Sudbury lying northerly and westerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the east boundary of the geographic Township of Eden; thence southerly along the east boundary of the geographic townships of Eden, Bevin and Sale to the southerly boundary of the Territorial District of Sudbury; thence westerly along the said boundary to the southwest corner of the geographic Township of Roosevelt; thence northerly along the west boundary of the geographic townships of Roosevelt and Truman to the southeast corner of the Township of Nairn; thence westerly along the south boundary of the townships of Nairn and Baldwin to the southwest corner of the last mentioned township; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the westerly boundary of the Territorial District of Sudbury.

THE ELECTORAL DISTRICT OF NIPISSING—consists of that part of the Territorial District of Nipissing lying within the following limits: Commencing at the northwest corner of the geographic Township of Hugel; thence easterly along the north boundary of the geographic townships of Hugel and Badgerow to the northwest corner of the Township of Field; thence easterly along the north boundary of the Township of Field to the northeast corner thereof; thence easterly along the north boundary of the geographic townships of Grant, Charlton, Blyth, Merrick, Mulock, French, Butler and Antoine to the northeast corner of the last mentioned township; thence easterly along the prolongation of the north boundary of the geographic Township of Antoine to the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the northeast corner of the Township of Mattawan; thence westerly along the north boundary of the said township to the northwest corner thereof; thence southerly along the west boundary of the Township of Mattawan to the southwesterly corner thereof; thence westerly along the northerly boundary of the townships of Calvin, Bonfield and East Ferris to the northwesterly corner of the last mentioned township; thence southerly along the westerly boundary of the Township of East Ferris to the northeasterly corner of the Township of North Himsworth; thence westerly and northerly along the southerly and westerly boundaries of the Territorial District of Nipissing to the point of commencement.

THE ELECTORAL DISTRICT OF NORFOLK—consists of the City of Nanticoke, the towns of Simcoe and Tillsonburg and the townships of Delhi and Norfolk.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—consists of the County of Northumberland.

THE ELECTORAL DISTRICT OF OAKVILLE SOUTH—consists of that part of the Town of Oakville lying southerly of the Queen Elizabeth Way and that part of the City of Burlington lying within the following limits: Commencing at the intersection of the northeasterly limit of the City of Burlington with New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeasterly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OAKWOOD—consists of that part of the cities of York and Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Bathurst Street; thence southerly along Bathurst Street to the southerly limit of the City of York situated immediately north of St. Clair Avenue West; thence westerly along the said limit to the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York; thence easterly along the said limit to Allen Road; thence southerly along Allen Road to Eglinton Avenue West; thence easterly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ORIOLE—consists of that part of the City of North York lying northerly of the Macdonald-Cartier Freeway and easterly of Leslie Street.

THE ELECTORAL DISTRICT OF OSHAWA—consists of that part of the City of Oshawa lying southerly and easterly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence easterly along Taunton Road to the easterly limit of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA CENTRE—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with Island Park Drive; thence southerly along Island Park Drive to Merivale Road; thence southerly along Merivale Road to the southerly limit of the City of Ottawa; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to Heron Road; thence easterly along Heron Road to the Rideau Canal; thence northeasterly and northerly along the said canal to the northerly extremity thereof; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence westerly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA EAST—consists of the City of Vanier, and that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec and a line drawn on a course of north 45° 00' west from the northerly extremity of Rideau Canal; thence south 45° 00' east along the said line to the northerly extremity of the Rideau Canal; thence southerly along the said canal to the Queensway; thence easterly along the Queensway

to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence south-westerly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park; thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence southwesterly along the said Inter-provincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA-RIDEAU—consists of that part of the cities of Gloucester, Nepean and Ottawa lying within the following limits: Commencing at the intersection of Clyde Avenue with the northerly limit of the City of Nepean; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to the Rideau Canal; thence southerly along the Rideau Canal to the Rideau River; thence southerly along the Rideau River to the westerly prolongation of Walkley Road; thence easterly along the said prolongation to and along Walkley Road to its easterly extremity; thence easterly along the easterly prolongation of Walkley Road to the easterly limit of the City of Ottawa; thence southerly and westerly along the easterly and southerly limits of the City of Ottawa to Conroy Road; thence southerly along Conroy Road to the King's Highway No. 31; thence southerly along said Highway to Leitrim Road; thence westerly along Leitrim Road to Albion Road; thence southerly along Albion Road to Leitrim Drive; thence westerly along Leitrim Drive to the westerly limit of the part of the Ottawa International Airport lying northerly of Leitrim Drive; thence northerly along the said westerly limit to the northerly limit of the City of Gloucester; thence westerly along the said limit to the Rideau River; thence southerly along the Rideau River to Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the easterly prolongation of Walkley Road; thence westerly along the said prolongation to and along Walkley Road and its westerly prolongation to the Rideau River; thence northerly along the Rideau River to the Rideau Canal; thence northerly and easterly along the Rideau Canal to the Queensway; thence easterly along the Queensway to the easterly limit of the City of Ottawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA WEST—consists of that part of the City of Ottawa lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Ottawa with Merivale Road; thence northerly along Merivale Road to Island Park Drive; thence northerly along Island Park Drive to the Interprovincial Boundary between Ontario and Quebec.

THE ELECTORAL DISTRICT OF OXFORD—consists of the County of Oxford but excluding the Town of Tillsonburg.

THE ELECTORAL DISTRICT OF PARKDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the south-westerly limit of the City of Toronto with the southerly prolongation of Ronc-

esvalles Avenue; thence northerly along the said prolongation to and along Roncesvalles Avenue to Dundas Street West; thence northerly along Dundas Street West to Bloor Street West; thence easterly along Bloor Street West to Ossington Avenue; thence southerly along Ossington Avenue to College Street; thence westerly along College Street to Dovercourt Road; thence southerly along Dovercourt Road and its southerly prolongation to King Street West; thence westerly along King Street West to Atlantic Avenue; thence southerly along Atlantic Avenue and its southerly prolongation to the Gardiner Expressway; thence easterly along the Gardiner Expressway to Strachan Avenue; thence southerly along Strachan Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF PARRY SOUND—consists of the Territorial District of Parry Sound and that part of the Territorial District of Nipissing, but excluding the Township of Airy and the geographic townships of Dickens, Lyell, Murchison and Sabine, lying southerly of a line described as follows: Commencing at the northeasterly corner of the Township of North Himsforth; thence northerly along the westerly boundary of the Township of East Ferris to the northwesterly corner thereof; thence easterly along the northerly boundary of the townships of East Ferris, Bonfield and Calvin to the southwesterly corner of the Township of Mattawan; thence northerly and easterly along the west and north boundaries of the Township of Mattawan to the northeasterly corner thereof.

THE ELECTORAL DISTRICT OF PERTH—consists of the County of Perth.

THE ELECTORAL DISTRICT OF PETERBOROUGH—consists of the City of Peterborough, the Village of Millbrook, the townships of Cavan, Ennismore, North Monaghan, South Monaghan and Smith, and Indian Reserve No. 35.

THE ELECTORAL DISTRICT OF PORT ARTHUR—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the southwest corner of the geographic Township of Adrian; thence northerly along the west boundary of the geographic townships of Adrian and Horne to the southerly boundary of the Dawson Road Lots; thence westerly, northerly and easterly along the southerly, westerly and northerly boundaries of the Dawson Road Lots to the west boundary of the geographic Township of Goldie; thence northerly along the west boundary of the geographic Township of Goldie to the northwest corner thereof; thence easterly along the north boundary of the geographic townships of Goldie and Forbes to the southeast corner of Block 1; thence northerly along the east boundary of the said block to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the geographic Township of Jacques to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along the said centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence southwesterly along the said International Boundary to the line of longitude 89° 00'; thence north astronomically along the said line of longitude to the easterly prolongation of the south limit of the former City of Port Arthur, as existing prior to January 1, 1970; thence westerly along the said prolongation to and along the south limit of the said for-

mer City of Port Arthur to Golf Links Road; thence northerly along Golf Links Road to the Harbour Access Route; thence westerly along the Harbour Access Route to the Lakehead Expressway; thence southerly along the Lakehead Expressway to the south limit of the former City of Port Arthur as existing prior to January 1, 1970; thence westerly along the said limit and the south boundary of the former Township of McIntyre as existing prior to January 1, 1970, to the northeast corner of the Township of Paipoonge; thence westerly along the north boundary of the said township to the northwest corner thereof; thence northerly along the east boundary of the Township of O'Connor to the northeast corner thereof; thence westerly along the north boundary of the Township of O'Connor to the southeast corner of the geographic Township of Adrian; thence westerly along the south boundary of the said township to the point of commencement.

THE ELECTORAL DISTRICT OF PRESCOTT AND RUSSELL—consists of the counties of Prescott and Russell and the Township of Cumberland.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—consists of the County of Prince Edward, the towns of Deseronto and Napanee, the Village of Bath, the townships of Adolphustown, Ernestown, North Fredericksburgh, Richmond, South Fredericksburgh, Thurlow and Tyendinaga, and Indian Reserve No. 38.

THE ELECTORAL DISTRICT OF QUINTE—consists of the cities of Belleville and Trenton, the Village of Frankford, and the Township of Sidney.

THE ELECTORAL DISTRICT OF RAINY RIVER—consists of the Territorial District of Rainy River and that part of the Territorial District of Kenora, excluding the community of English River, lying south of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the northwest corner of the geographic Township of Van Horne; thence easterly along the north boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east boundaries of the said township to the north boundary of the geographic Township of Zealand; thence easterly along the north boundary of the geographic townships of Zealand, Hartman and MacFie to the northeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay.

THE ELECTORAL DISTRICT OF RENFREW NORTH—consists of the Township of Airy, the geographic townships of Dickens, Lyell, Murchison and Sabine, and the County of Renfrew but excluding the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF RIVERDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the Don River with the northerly limit of the City of Toronto; thence easterly along the said limit to Coxwell Avenue; thence southerly along Coxwell Avenue to the Canadian National railway line; thence southwesterly along the said railway line to Greenwood Avenue; thence southerly along Greenwood Avenue

to Queen Street East; thence westerly along Queen Street East to Leslie Street; thence southerly along Leslie Street and its southerly prolongation to the southerly limit of the City of Toronto; thence westerly along the said limit to the southerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence northerly along the said prolongation to and along the said centre line to the northerly extremity thereof; thence northerly along the prolongation of the said centre line to the water's edge of Inner Harbour; thence easterly along the said water's edge to the northerly side of the Keating Channel; thence easterly along the said northerly side to the Don River; thence northerly along the Don River to the point of commencement.

THE ELECTORAL DISTRICT OF ST. ANDREW-ST. PATRICK—consists of that part of the cities of Toronto and York lying within the following limits: Commencing at the intersection of Yonge Street with College Street; thence westerly along College Street to Bathurst Street; thence northerly along Bathurst Street to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Allen Road; thence northerly along Allen Road to the northerly limit of the City of Toronto; thence easterly along the said limit to the southerly extremity of the course thereon oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence southerly along the prolongation of the said course in the northerly limit of the City of Toronto to Briar Hill Avenue; thence easterly along Briar Hill Avenue to Castlewood Road; thence southerly along Castlewood Road to Roselawn Avenue; thence westerly along Roselawn Avenue to Latimer Avenue; thence southerly along Latimer Avenue to Eglinton Avenue West; thence easterly along Eglinton Avenue West to Duncannon Drive; thence southerly along Duncannon Drive and its southerly prolongation to the abandoned Canadian National railway line situated immediately southwest of Chaplin Crescent; thence southeasterly along the said railway line to Yonge Street; thence southerly along Yonge Street to the easterly prolongation of Lonsdale Road; thence westerly along the said prolongation to and along Lonsdale Road to Avenue Road; thence southerly along Avenue Road to St. Clair Avenue West; thence easterly along St. Clair Avenue West to Yonge Street; thence southerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF ST. CATHARINES—consists of that part of the City of St. Catharines lying northerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West; thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. CATHARINES-BROCK—consists of the Town of Niagara-on-the-Lake and that part of the City of St. Catharines lying southerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Twelve Mile Creek; thence southerly along Twelve Mile Creek to the southerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. GEORGE-ST. DAVID—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Carlton Street with Yonge Street; thence northerly along Yonge Street to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Avenue Road; thence northerly along Avenue Road to Lonsdale Road; thence easterly along Lonsdale Road and its easterly prolongation to Yonge Street; thence southerly along Yonge Street to the southerly limit of Mount Pleasant Cemetery; thence easterly along the said limit to the westerly limit of the Borough of East York; thence southerly and easterly along the westerly and

southerly limits of the said borough to the Don River; thence southerly along the Don River to the northerly side of the Keating Channel; thence westerly along the said northerly side to the water's edge of Inner Harbour; thence westerly along the said water's edge to the southerly prolongation of Sherbourne Street; thence northerly along the said prolongation to and along Sherbourne Street to Carlton Street; thence westerly along Carlton Street to the point of commencement.

THE ELECTORAL DISTRICT OF SARNIA—consists of the City of Sarnia, the Village of Point Edward, that part of the Township of Sarnia lying westerly of Modeland Road and northerly of Confederation Street, and Indian Reserve No. 45.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—consists of the City of Sault Ste. Marie.

THE ELECTORAL DISTRICT OF SCARBOROUGH-AGINCOURT—consists of that part of the City of Scarborough lying northerly of the Macdonald-Cartier Freeway and westerly of the Canadian National railway line situated immediately east of Kennedy Road.

THE ELECTORAL DISTRICT OF SCARBOROUGH CENTRE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Lawrence Avenue East and Markham Road; thence southerly along Markham Road and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southerly prolongation of Wynnview Court; thence northerly along the said prolongation to and along Wynnview Court to the northerly extremity thereof; thence northerly in a straight line to the southerly extremity of Kennedy Road; thence northerly along Kennedy Road to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the Canadian National railway line situated immediately west of Midland Avenue; thence northerly along the said railway line to Lawrence Avenue East; thence easterly along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH EAST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Markham Road with Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northwesterly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Scarborough; thence southerly along the said limit to the southeasterly corner of the said city; thence westerly along the southerly limit of the said city to the southerly prolongation of Markham Road; thence northerly along the said prolongation to and along Markham Road to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH ELLESMERE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the Macdonald-Cartier Freeway with Victoria Park Avenue; thence southerly along Victoria Park Avenue to Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northerly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH NORTH—consists of that part of the City of Scarborough lying northerly and easterly of a line described as follows: Com-

mencing at the intersection of the easterly limit of the City of Scarborough with the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the Canadian National railway line situated immediately east of Kennedy Road; thence northerly along the said railway line to the northerly limit of the City of Scarborough.

THE ELECTORAL DISTRICT OF SCARBOROUGH WEST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the westerly limit of the City of Scarborough with Lawrence Avenue East; thence easterly along Lawrence Avenue East to the Canadian National railway line; thence southerly along the said railway line to Eglinton Avenue East; thence westerly along Eglinton Avenue East to Kennedy Road; thence southerly along Kennedy Road to the southerly extremity thereof; thence southerly in a straight line to the northerly extremity of Wynnview Court; thence southerly along Wynnview Court and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southwest corner of the said city; thence northerly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—consists of the City of Barrie, the Town of Bradford, and the townships of Innisfil, Vespra and West Gwillimbury.

THE ELECTORAL DISTRICT OF SIMCOE NORTH—consists of the City of Orillia, the Town of Penetanguishene, the villages of Coldwater and Elmvale, the townships of Flos, Mara, Medonte, Orillia, Oro, Rama and Tiny, and Indian reserves No. 30 and No. 32.

THE ELECTORAL DISTRICT OF SIMCOE WEST—consists of the towns of Alliston, Collingwood, Stayner, and Wasaga Beach, the villages of Beeton, Cookstown, Creemore and Tottenham, and the townships of Adjala, Essa, Nottawasaga, Sunnidale, Tecumseth and Tosorontio.

THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY—consists of the towns of Alexandria and Kemptville, the villages of Cardinal, Chesterville, Finch, Iroquois, Lancaster, Maxville, Morrisburg and Winchester, and the townships of Edwardsburgh, Finch, Kenyon, Lancaster, Lochiel, Matilda, Mountain, Osnabruck, Oxford-on-Rideau, Roxborough, South Gower, Williamsburgh and Winchester.

THE ELECTORAL DISTRICT OF SUDBURY—consists of that part of the City of Sudbury lying within wards 1, 4, 5, 6, 7 and 8 and that part of wards 2 and 3 lying southerly of Lasalle Boulevard.

THE ELECTORAL DISTRICT OF SUDBURY EAST—consists of that part of the Territorial District of Sudbury lying within the following limits: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence easterly along the northerly limit of the City of Sudbury to the northeast corner of Ward 4; thence southerly along the easterly limit of Ward 4 to Lasalle Boulevard; thence easterly along Lasalle Boulevard to the easterly limit of the City of Sudbury; thence southerly along the said limit to the northeast corner of Ward 9; thence westerly along the north limit of Ward 9 to the westerly limit of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the west

boundary of the geographic Township of Tilton; thence southerly along the west boundary of the geographic townships of Tilton, Halifax, Attlee, Kilpatrick and Travers to the boundary between the territorial districts of Sudbury and Parry Sound; thence easterly along the said boundary to the boundary between the territorial districts of Sudbury and Nipissing; thence westerly and northerly along the said boundary to the point of commencement.

THE ELECTORAL DISTRICT OF TIMISKAMING—consists of the Territorial District of Timiskaming and that part of the Territorial District of Nipissing lying northerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the easterly prolongation of the south boundary of the geographic Township of Eddy; thence westerly along the said prolongation to and along the south boundary of the geographic Township of Eddy and of the geographic townships of Jocko, Lockhart, Stewart, Notman, Lyman, Fell, Bastedo, Gibbons and Crerar to the southwest corner of the last mentioned township.

THE ELECTORAL DISTRICT OF VICTORIA-HALIBURTON—consists of the counties of Haliburton and Victoria but excluding the Township of Manvers.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—consists of the City of Waterloo and the townships of Wellesley and Woolwich.

THE ELECTORAL DISTRICT OF WELLAND-THOROLD—consists of the cities of Thorold and Welland.

THE ELECTORAL DISTRICT OF WELLINGTON—consists of the County of Wellington but excluding the City of Guelph.

THE ELECTORAL DISTRICT OF WENTWORTH EAST—consists of the Township of Glanbrook, the City of Stoney Creek and that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with the brow of Hamilton Mountain; thence southwesterly along the said brow to Redhill Creek; thence northerly along Redhill Creek to Queenston Road; thence easterly along Queenston Road to the easterly limit of the City of Hamilton; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF WENTWORTH NORTH—consists of the towns of Ancaster and Dundas and the Township of Flamborough.

THE ELECTORAL DISTRICT OF WILSON HEIGHTS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Dufferin Street with the northerly limit of the City of North York; thence easterly along the said limit to Yonge Street; thence southerly along Yonge Street to Finch Avenue West; thence westerly along Finch Avenue West to Bathurst Street; thence southerly along Bathurst Street to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Avenue Road; thence southerly along Avenue Road to the westerly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence easterly along the said prolongation to the southerly limit of the City of North York; thence southerly along the said limit to Old Orchard Grove; thence westerly along Old Orchard Grove to Bathurst Street; thence northerly along Bathurst Street to Baycrest Avenue; thence westerly along Baycrest Avenue and its westerly prolongation to Allen Road; thence northerly along Allen Road to Dufferin Street; thence northerly along Dufferin Street to the point of commencement.

THE ELECTORAL DISTRICT OF WINDSOR-RIVERSIDE—consists of the Town of Tecumseh, the Village of St. Clair Beach and that part of the City of Windsor (including Peche Island) lying easterly of a line described as follows: Commencing at the

intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Buckingham Drive; thence southerly along the said prolongation to and along Buckingham Drive to Wyandotte Street East; thence westerly along Wyandotte Street East to Raymo Road; thence southerly along Raymo Road and its southerly prolongation to the Canadian National railway line; thence westerly along the said railway line to the northerly prolongation of Norman Road; thence southerly along the said prolongation to and along Norman Road to Tecumseh Road East; thence westerly along Tecumseh Road East to the Chesapeake and Ohio railway line; thence southerly along the said railway line to the southerly limit of the City of Windsor.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—consists of the Township of Sandwich West and that part of the City of Windsor lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Windsor with Cabana Road West; thence easterly along Cabana Road West to Dougall Avenue; thence northerly along Dougall Avenue to Ouellette Place; thence northerly along Ouellette Place to Ouellette Avenue; thence northerly along Ouellette Avenue and its northerly prolongation to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—consists of that part of the City of Windsor lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Ouellette Avenue; thence southerly along the said prolongation to and along Ouellette Avenue to Ouellette Place; thence southerly along Ouellette Place to Dougall Avenue; thence southerly along Dougall Avenue to Cabana Road West; thence westerly along Cabana Road West to the southerly limit of the City of Windsor; thence easterly along the said limit to the Chesapeake and Ohio railway line; thence northerly along the said railway line to Tecumseh Road East; thence easterly along Tecumseh Road East to Norman Road; thence northerly along Norman Road and its northerly prolongation to the Canadian National railway line; thence easterly along the said railway line to the southerly prolongation of Raymo Road; thence northerly along the said prolongation to and along Raymo Road to Wyandotte Street East; thence easterly along Wyandotte Street East to Buckingham Drive; thence northerly along Buckingham Drive and its northerly prolongation to the International Boundary between Canada and the United States of America; thence westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF YORK CENTRE—consists of the towns of Richmond Hill and Vaughan.

THE ELECTORAL DISTRICT OF YORK EAST—consists of that part of the Borough of East York lying within the following limits: Commencing at the intersection of Chisholm Avenue with the southerly limit of the Borough of East York; thence westerly, northerly, easterly and southeasterly along the southerly, westerly and northerly limits of the said borough to Don Mills Road; thence southerly along Don Mills Road to the Don River; thence easterly along the Don River to Taylor Creek; thence southeasterly along Taylor Creek to the northerly prolongation of Chisholm Avenue; thence southerly along the said prolongation to and along Chisholm Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF YORK MILLS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Avenue Road with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of North York; thence southerly along the said limit to Lawrence Avenue East; thence westerly along Lawrence Avenue East and its westerly prolongation to Don River West Branch; thence northwesterly along the Don River West Branch to the

easterly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence westerly along the said prolongation to and along the southerly limit of the City of North York to the westerly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence westerly along the prolongation of the said course to Avenue Road; thence northerly along Avenue Road to the point of commencement.

THE ELECTORAL DISTRICT OF YORK NORTH—consists of the towns of Aurora and Newmarket and the Township of King.

THE ELECTORAL DISTRICT OF YORK-ONTARIO—consists of the towns of East Gwillimbury and Whitchurch-Stouffville, the townships of Brock, Georgina and Uxbridge, and Indian Reserve No. 33.

THE ELECTORAL DISTRICT OF YORK SOUTH—consists of that part of the City of York lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of York with the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York.

THE ELECTORAL DISTRICT OF YORKVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence westerly and southerly along the northerly and westerly limits of the City of North York to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

Bill 77

An Act to revise the Representation Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading June 11th, 1986

2nd Reading July 8th, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

Bill

EXPLANATORY NOTE

The Bill, in accordance with the Report on redistribution presented by the Ontario Electoral Boundaries Commission, increases the number of members in the Legislative Assembly from 125 to 130, one member to be returned from each electoral district described in the Schedule, and will take effect following the first dissolution of the Legislature that occurs after the 31st day of August, 1986. The appointment of returning officers under the *Election Act, 1984* and the registration of constituency associations under the *Election Finances Reform Act*, in accordance with the new electoral districts described in the Bill, may, however, commence upon the Bill receiving Royal Assent.

Bill 77

1986

An Act to revise the Representation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The boundaries of every territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward in any municipality shall for the purpose of this Act be deemed to be the boundaries of such territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward as defined by statute, by-law, proclamation or other lawful authority on the 6th day of January, 1986. Boundaries
2. The Legislative Assembly of Ontario shall consist of one hundred and thirty members. Number of members
- 3.—(1) Ontario shall, for the purpose of representation in the Assembly, be divided into electoral districts as set out in the Schedule. Division of Ontario into electoral districts
- (2) One member shall be returned to the Assembly for each electoral district. One member per electoral district
4. The boundaries of the electoral districts as set out in the Schedule shall not be affected by alterations in municipal or ward boundaries made after the 6th day of January, 1986. Changes in municipal or ward boundaries
5. Where a county, city, town, village, township, improvement district, borough, district municipality or regional municipality becomes incorporated and is not expressly included in an electoral district set out in the Schedule but is situated in part in two or more of such electoral districts, the electors entitled to vote in such municipality are entitled to vote in the electoral district in which they would have been entitled to vote if the county, city, town, village, township, improvement district, borough, district municipality or regional municipality had not become incorporated. Municipalities on boundary lines

Augmen-
tation
or gores of
townships

6. Except as otherwise expressly set out in the Schedule, every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situated.

Municipalities
included in
electoral
district in
which situate

7. Every county, city, town, village, township, improvement district, borough, district municipality and regional municipality heretofore or hereafter incorporated, situate wholly within an electoral district as set out in the Schedule and not expressly included in any other electoral district in the Schedule, shall form part of the electoral district in which it is situate.

Special Act
overruled

8. Every county, city, town, village, township, improvement district, borough, district municipality or regional municipality that by the provisions of any special Act passed before this Act comes into force forms or forms part of an electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule.

Repeal

9. The *Representation Act*, being chapter 450 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

10.—(1) This Act comes into force and has effect upon the first dissolution of the Legislature that occurs after the 31st day of August, 1986.

Idem
1984, c. 54

R.S.O. 1980,
c. 134

(2) Notwithstanding subsection (1), for the purposes only of the appointment of returning officers under the *Election Act, 1984* and the registration of constituency associations under the *Election Finances Reform Act*, and matters ancillary thereto, to be in effect for the purposes of an election held after the dissolution of the Legislature specified in subsection (1), the electoral districts set out in the Schedule shall be deemed to be established on the day this Act receives Royal Assent.

Short title

11. The short title of this Act is the *Representation Act, 1986*.

SCHEDULE

In the following descriptions,

- (a) a reference to a road, water feature or railway line signifies the centre line of the road, water feature or railway line, unless otherwise provided;
- (b) a reference to a territorial division or a municipality refers to the territorial division or municipality as it existed on the 6th day of January, 1986; and
- (c) every city, town, village, township, improvement district, development area and Indian reserve lying within the perimeter of an electoral district is included in the electoral district unless otherwise provided.

ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA—consists of that part of the Territorial District of Algoma, but excluding the geographic townships of Ebbs and Templeton, lying northerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Redden; thence westerly along the south boundary of the geographic townships of Redden, Prescott, Plourde, Piche, Viel and Sagard to the northeast corner of the geographic Township of Nicholas; thence southerly along the east boundary of the geographic Township of Nicholas to the northwest corner of the Town of Elliot Lake; thence southerly along the west limit of the Town of Elliot Lake to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of that township to the southerly boundary of the Territorial District of Algoma; thence westerly along that boundary to the easterly limit of the City of Sault Ste. Marie; thence northerly along the easterly boundary of the City of Sault Ste. Marie to the northeast corner thereof; thence westerly along the north boundary of that city to the northwest corner thereof; thence southerly along the east boundary of the Township of Prince to the southeast corner thereof; thence westerly along the south boundary of the Township of Prince to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—consists of the Territorial District of Manitoulin and that part of the territorial districts of Algoma and Sudbury lying within the following limits: Commencing at the intersection of the southerly boundary of the Territorial District of Sudbury with the east boundary of the geographic Township of Curtin; thence northerly along the east boundary of the geographic townships of Curtin and Foster to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Foster and Merritt to the northeast corner of the Town of Espanola; thence westerly along the north boundary of the said town to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Merritt to the southeast corner of the geographic Township of Shakespeare; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the southeast corner of the geographic Township of Tennyson; thence northerly along the east boundary of the geographic townships of Tennyson, Boon, Mandamin and Strain to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Strain, Teasdale, Poncet, Hughson, Hembruff and Raimbault to the northwest corner of the last mentioned township; thence southerly along the west boundary of the said township to the northwest corner of the Town of Elliott Lake; thence southerly along the west limit of the said town to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of the said township to the southerly boundary of the Territorial District of Algoma; thence easterly along the southerly boundary of the territorial districts of Algoma and Sudbury to the point of commencement.

THE ELECTORAL DISTRICT OF BEACHES-WOODBINE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Queen Street East with Greenwood Avenue; thence northerly along Greenwood Avenue to the Canadian National railway line; thence northeasterly along the said railway line to Coxwell Avenue; thence northerly along Coxwell Avenue to the northerly limit of the City of Toronto; thence easterly along the said limit to the easterly limit of the said city; thence southerly along the said limit to the southeasterly corner of the City of Toronto; thence westerly along the southerly limit of the said city to the southerly prolongation of Leslie Street; thence northerly along the said prolongation to and along Leslie Street to Queen Street East; thence easterly along Queen Street East to the point of commencement.

THE ELECTORAL DISTRICT OF BRAMPTON NORTH—consists of that part of the City of Brampton lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRAMPTON SOUTH—consists of that part of the City of Brampton lying southerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRANTFORD—consists of the City of Brantford.

THE ELECTORAL DISTRICT OF BRANT-HALDIMAND—consists of the County of Brant but excluding the City of Brantford; the towns of Dunnville and Haldimand, Indian reserves No. 40 and No. 40A, and the Township of North Dumfries but excluding that part lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF BRUCE—consists of the County of Bruce.

THE ELECTORAL DISTRICT OF BURLINGTON SOUTH—consists of that part of the City of Burlington lying southerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; thence southeasterly along the said limit to New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeasterly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington.

THE ELECTORAL DISTRICT OF CAMBRIDGE—consists of the City of Cambridge and of that part of the Township of North Dumfries lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF CARLETON—consists of the City of Kanata and the townships of Goulbourn, Osgoode, Rideau and West Carleton.

THE ELECTORAL DISTRICT OF CARLETON EAST—consists of the Village of Rockcliffe Park and of that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the Queensway; thence easterly along the Queensway to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence southwesterly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park; thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence easterly along the said Interprovincial Boundary to the northeasterly corner of the City of Gloucester; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of Gloucester to the northwesterly corner of the said city; thence easterly along the northerly limit of the City of Gloucester to the westerly limit of the Ottawa International Airport; thence southerly along the said limit to Leitrim Drive; thence easterly along Leitrim Drive to Albion Road; thence northerly along Albion Road to Leitrim Road; thence easterly along Leitrim Road to the King's Highway No. 31; thence northerly along said Highway to Conroy Road; thence northerly along Conroy Road to the southerly limit of the City of Ottawa; thence easterly and northerly along the southerly and easterly limits of the City of Ottawa to the point of commencement.

THE ELECTORAL DISTRICT OF CHATHAM-KENT—consists of the City of Chatham, the towns of Bothwell, Dresden and Wallaceburg and the townships of Camden, Chatham, Dover and Zone.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—consists of the geographic townships of Ebbs and Templeton; that part of the Territorial District of Cochrane lying northerly and westerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teefy; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid; and that part of the Territorial District of Kenora lying easterly of a line described as follows: Commencing at the northerly extremity of the boundary between the territorial districts of Cochrane and Thunder Bay; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—consists of that part of the Territorial District of Cochrane lying southerly and easterly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south

boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teefy; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid.

THE ELECTORAL DISTRICT OF CORNWALL—consists of the City of Cornwall, the townships of Charlottenburgh and Cornwall, and Indian Reserve No. 59.

THE ELECTORAL DISTRICT OF DON MILLS—consists of that part of the City of North York and of the Borough of East York lying within the following limits: Commencing at the intersection of Lawrence Avenue East with the easterly limit of the City of North York; thence southerly along the easterly limit of the City of North York and of the Borough of East York to the southerly limit of the said borough; thence westerly along the said southerly limit to Chisholm Avenue; thence northerly along Chisholm Avenue and its northerly prolongation to Taylor Creek; thence northwesterly along Taylor Creek to the Don River; thence westerly along the Don River to Don Mills Road; thence northerly along Don Mills Road to the southerly limit of the City of North York; thence northwesterly, westerly and northerly along the said limit to the easterly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence easterly on the easterly prolongation of the said course to the Don River West Branch; thence southeasterly along the Don River West Branch to the westerly prolongation of Lawrence Avenue East; thence easterly along the said prolongation to and along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF DOVERCOURT—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the southerly limit of the City of York with Bathurst Street; thence southerly along Bathurst Street to Bloor Street West; thence westerly along Bloor Street West to the Canadian National railway line situated immediately west of Helens Avenue; thence northerly along the said railway line to St. Clair Avenue West; thence westerly along St. Clair Avenue West to the Canadian National railway line situated immediately northeast of Weston Road; thence northwesterly along the said railway line to the northerly limit of the City of Toronto; thence easterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DOWNSVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence easterly along the said limit to Dufferin Street; thence southerly along Dufferin Street to Allen Road; thence southerly along Allen Road to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

THE ELECTORAL DISTRICT OF DUFFERIN-PEEL—consists of the County of Dufferin and the Town of Caledon.

THE ELECTORAL DISTRICT OF DURHAM CENTRE—consists of that part of the Town of Whitby lying southerly of Taunton Road and that part of the City of Oshawa lying within the following limits: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence westerly along Taunton Road to the westerly limit of the City of Oshawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DURHAM EAST—consists of that part of the City of Oshawa lying northerly of Taunton Road, that part of the Town of Whitby lying northerly of Taunton Road, the Town of Newcastle, the townships of Manvers and Scugog and Indian Reserve No. 34.

THE ELECTORAL DISTRICT OF DURHAM WEST—consists of the towns of Ajax and Pickering.

THE ELECTORAL DISTRICT OF DURHAM-YORK—consists of the towns of East Gwillimbury and Whitchurch-Stouffville, the townships of Brock, Georgina and Uxbridge, and Indian Reserve No. 33.

THE ELECTORAL DISTRICT OF EGLINTON—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Latimer Avenue; thence northerly along Latimer Avenue to Roselawn Avenue; thence easterly along Roselawn Avenue to Castlewood Road; thence northerly along Castlewood Road to Briar Hill Avenue; thence westerly along Briar Hill Avenue to the southerly prolongation of the course in the northerly limit of the City of Toronto oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence northerly along the said prolongation to the northerly limit of the City of Toronto; thence northerly, easterly and southerly along the said limit to the westerly limit of the Borough of East York; thence southerly along the said limit to the southerly limit of Mount Pleasant Cemetery; thence westerly along the said limit to Yonge Street; thence northerly along Yonge Street to the abandoned Canadian National railway line situated immediately south of Merton Street; thence northwesterly along the said railway line to the southerly prolongation of Duncannon Drive; thence northerly along the said prolongation to and along Duncannon Drive to Eglinton Avenue West; thence westerly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ELGIN—consists of the County of Elgin.

THE ELECTORAL DISTRICT OF ESSEX-KENT—consists of the towns of Belle River, Blenheim, Ridgeway and Tilbury, the villages of Erie Beach, Erieau, Highgate, Thamesville and Wheatley, and the townships of Harwich, Howard, Maidstone, Orford, Raleigh, Rochester, Romney, Sandwich South, Tilbury East, Tilbury North and Tilbury West.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—consists of the towns of Amherstburg, Essex, Harrow, Kingsville and Leamington, and the townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee.

THE ELECTORAL DISTRICT OF ETOBICOKE-HUMBER—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of Bloor Street West with Kipling Avenue; thence northerly along Kipling Avenue to The Westway; thence westerly along The Westway to Martin Grove Road; thence northerly along Martin Grove Road to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Etobicoke; thence southeasterly along the said limit to Bloor Street West; thence westerly along Bloor Street West to the point of commencement.

THE ELECTORAL DISTRICT OF ETOBICOKE-LAKESHORE—consists of that part of the City of Etobicoke lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Etobicoke with the Canadian Pacific railway line; thence northeasterly along the said railway line to Kipling Avenue; thence northerly along Kipling Avenue to Bloor Street West; thence easterly along Bloor Street West to the easterly limit of the City of Etobicoke.

THE ELECTORAL DISTRICT OF ETOBICOKE-REXDALE—consists of that part of the City of Etobicoke lying northerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF ETOBICOKE WEST—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of the Canadian Pacific railway line with the westerly limit of the City of Etobicoke; thence northerly along the said limit to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to Martin Grove Road; thence southerly along Martin Grove Road to The Westway; thence easterly along The Westway to Kipling Avenue; thence southerly along Kipling Avenue to the Canadian Pacific railway line; thence southwest-erly along the said railway line to the point of commencement.

THE ELECTORAL DISTRICT OF FORT WILLIAM—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn on a course of south astronomic from the southwest corner of the geographic Township of Devon; thence north astronomically along the said line to the southwest corner of the said township; thence northerly along the west boundary of the geographic townships of Devon, Fraleigh, Lybster and Marks to the northwest corner of the last mentioned township; thence easterly along the north boundary of the geographic Township of Marks to the northwest corner of the Township of O'Connor; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the Township of O'Connor to the northwest corner of the Township of Paipoo; thence easterly along the north boundary of the said township to the northeast corner thereof; thence easterly along the north boundary of the former Township of Neebing and of the former City of Fort William, both as existing prior to January 1, 1970, to the Lakehead Expressway; thence northerly along the Lakehead Expressway to the Harbour Access Route; thence easterly along the Harbour Access Route to Golf Links Road; thence southerly along Golf Links Road to the north limit of the former City of Fort William, as existing prior to January 1, 1970; thence easterly along the said limit and its easterly prolongation to the line of longitude 89° 00'; thence south astronomically along the said line of longitude to the International Boundary between Canada and the United States of America; thence southwesterly and westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF FORT YORK—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Ossington Avenue with Bloor Street West; thence easterly along Bloor Street West to Bathurst Street; thence southerly along Bathurst Street to College Street; thence easterly along College Street to Carlton Street; thence easterly along Carlton Street to Sherbourne Street; thence southerly along Sherbourne Street and its southerly prolongation to the water's edge of Inner Harbour; thence easterly along the said water's edge to the northerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence southerly along the said prolongation to and along the said centre line to the southerly extremity thereof; thence southerly along the prolongation of the said centre line to the southerly limit of the City of Toronto; thence westerly and northwesterly along the southerly and southwesterly limits of the said city to the

southerly prolongation of Strachan Avenue; thence northerly along the said prolongation to and along Strachan Avenue to the Gardiner Expressway; thence westerly along the Gardiner Expressway to the southerly prolongation of Atlantic Avenue; thence northerly along the said prolongation to and along Atlantic Avenue to King Street West; thence easterly along King Street West to the southerly prolongation of Dovercourt Road; thence northerly along the said prolongation to and along Dovercourt Road to College Street; thence easterly along College Street to Ossington Avenue; thence northerly along Ossington Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—consists of that part of the County of Frontenac lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the Township of Pittsburgh with the Macdonald-Cartier Freeway; thence southwesterly along the Macdonald-Cartier Freeway to the northerly limit of the City of Kingston; thence westerly and southerly along the northerly and westerly limits of the City of Kingston to the shore of Lake Ontario; thence westerly along the said shore to the westerly boundary of the Township of Kingston; and that part of the County of Lennox and Addington lying northerly of a line described as follows: Commencing at the southeasterly corner of the Township of Camden East; thence westerly along the southerly boundary of the Township of Camden East to the southeasterly corner of the Village of Newburgh; thence westerly along the southerly limit of the said village to the southerly boundary of the Township of Camden East; thence westerly along the southerly limit of the said township to the southwesterly corner thereof; thence northerly along the westerly boundary of the said township to the northeasterly corner of the Township of Richmond.

THE ELECTORAL DISTRICT OF GREY—consists of the County of Grey.

THE ELECTORAL DISTRICT OF GUELPH—consists of the City of Guelph.

THE ELECTORAL DISTRICT OF HALTON CENTRE—consists of that part of the City of Burlington lying northerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; and that part of the Town of Milton lying southerly of Derry Road; and that part of the Town of Oakville lying northerly of the Queen Elizabeth Way.

THE ELECTORAL DISTRICT OF HALTON NORTH—consists of the Town of Halton Hills and that part of the Town of Milton lying northerly of Derry Road.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Queen Street with King Street; thence westerly along King Street to Chedoke Expressway; thence northerly along Chedoke Expressway to the Desjardins Canal; thence westerly along said canal to the westerly limit of the City of Hamilton; thence northerly and easterly along the westerly and northerly limits of the said city to the northerly prolongation of Sherman Avenue; thence southerly along the said prolongation to and along Sherman Avenue to Cannon Street; thence easterly along Cannon Street to Gage Avenue; thence southerly along Gage Avenue and its southerly prolongation to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly prolongation of Queen Street; thence northerly along the said prolongation to and along Queen Street to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON EAST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with Queenston Road; thence westerly

along Queenston Road to Redhill Creek; thence southerly along Redhill Creek to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly prolongation of Gage Avenue; thence northerly along the said prolongation to and along Gage Avenue to Cannon Street; thence westerly along Cannon Street to Sherman Avenue; thence northerly along Sherman Avenue and its northerly prolongation to the northerly limit of the City of Hamilton; thence easterly along the northerly limit of the said city to the northeasterly corner thereof; thence southerly along the easterly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON MOUNTAIN—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the southerly limit of the City of Hamilton with Upper James Street; thence northerly along Upper James Street to Fennell Avenue; thence easterly along Fennell Avenue to Upper Wellington Street; thence northerly along Upper Wellington Street and its northerly prolongation as aligned between Inverness Avenue and Concession Avenue to the brow of Hamilton Mountain; thence easterly along the said brow to the easterly limit of the City of Hamilton; thence southerly and westerly along the easterly and southerly limits of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON WEST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Upper James Street with the southerly limit of the City of Hamilton; thence westerly and northerly along the southerly and westerly limits of the said city to the Desjardins Canal; thence easterly along the said canal to the Chedoke Expressway; thence southerly along the Chedoke Expressway to King Street; thence easterly along King Street to Queen Street; thence southerly along Queen Street and its southerly prolongation to the brow of Hamilton Mountain; thence easterly along the said brow to the northerly prolongation of Upper Wellington Street as aligned between Inverness Avenue and Concession Avenue; thence southerly along the said prolongation to and along Upper Wellington Street to Fennell Avenue; thence westerly along Fennell Avenue to Upper James Street; thence southerly along Upper James Street to the point of commencement.

THE ELECTORAL DISTRICT OF HASTINGS-PETERBOROUGH—consists of that part of the County of Hastings lying northerly of a line described as follows: Commencing at the southwesterly corner of the Township of Rawdon; thence easterly along the southerly boundary of the said township to the westerly limit of the Village of Stirling; thence southerly, easterly and northerly along the westerly, southerly and easterly limits of the said village to the southerly boundary of the Township of Rawdon; thence easterly along the said boundary to the southwesterly corner of the Township of Huntingdon; thence easterly along the southerly boundary of the said township to the southwesterly corner of the Township of Hungerford; thence easterly along the southerly boundary of the said township to the southeasterly corner thereof; and the villages of Havelock, Lakefield and Norwood, and the townships of Asphodel, Belmont and Methuen, Burleigh and Anstruther, Chandos, Douro, Dummer, Galway and Cavendish, Harvey, and Otonabee.

THE ELECTORAL DISTRICT OF HIGH PARK-SWANSEA—consists of that part of the City of Toronto lying westerly of a line described as follows: Commencing at the intersection of the northerly limit of the City of Toronto with the Canadian National railway line situated immediately northeast of Weston Road; thence southeasterly along the said railway line to St. Clair Avenue West; thence easterly along St. Clair Avenue West to the Canadian National railway line situated immediately west of Caledonia Park Road; thence southerly along the said railway line to Bloor Street West; thence westerly along Bloor Street West to Dundas Street West; thence southerly along Dundas Street West to

Roncesvalles Avenue; thence southerly along Roncesvalles Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto.

THE ELECTORAL DISTRICT OF HURON—consists of the County of Huron.

THE ELECTORAL DISTRICT OF KENORA—consists of that part of the Territorial District of Kenora lying northerly and westerly of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the southwest corner of the geographic Township of Wainwright; thence easterly along the south boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east limits of the said township to the south boundary of the geographic Township of Brownridge; thence easterly along the south boundary of the geographic townships of Brownridge, Laval and McAree to the southeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay; thence northerly along the said boundary to the northwesterly corner of the Territorial District of Thunder Bay; thence continuing northerly along a meridian line to the 215 + 78.207 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1957; thence north astronomically to the Interprovincial Boundary between Ontario and Manitoba.

THE ELECTORAL DISTRICT OF KINGSTON AND THE ISLANDS—consists of the City of Kingston, the townships of Amherst Island, Howe Island, and Wolfe Island, and that part of the Township of Pittsburgh lying southerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF KITCHENER—consists of that part of the City of Kitchener lying northerly and westerly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF KITCHENER-WILMOT—consists of the Township of Wilmot and that part of the City of Kitchener lying southerly and easterly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF LAKE NIPIGON—consists of the community of English River in the Territorial District of Kenora and that part of the territorial districts of Kenora and Thunder Bay lying within the following limits: Commencing at the 215 + 78.207 Mile Post planted on a meridian line in the Territorial District of Kenora surveyed by A. Tarvydas, O.L.S., in 1957; thence southerly along that meridian line to the northerly extremity of the west boundary of the Territorial District of Thunder Bay; thence southerly along the said boundary to the International Boundary between Canada and the United States of America; thence easterly along the said International Boundary to the intersection with a line drawn south astronomic from the southeast corner of the geographic Township of Hartington; thence north astronomically along that line to the southeast corner of the geographic Township of Hartington; thence northerly along the east boundary of the geographic townships of Hartington, Lismore, Strange, Aldina, Sackville, Laurie and Blackwell to the northeast corner of the last mentioned township; thence easterly along the south boundary of the geographic Township of Soper and of Block 1 to the southeast corner of Block 1; thence northerly along the east boundary of

Block 1 to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the said township to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along that centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence northeasterly and southeasterly along the said International Boundary to the southeast corner of the Territorial District of Thunder Bay; thence northerly, westerly and northerly along the east boundary of the Territorial District of Thunder Bay to the northeast corner thereof; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay; thence northwesterly along the said shore to the Interprovincial Boundary between Ontario and Manitoba; thence southwesterly along the said Interprovincial Boundary to the intersection with a line drawn north astronomic from the point of commencement; thence south astronomically along the said line to the point of commencement.

THE ELECTORAL DISTRICT OF LAMBTON—consists of that part of the County of Lambton lying southerly and easterly of a line described as follows: Commencing at the southwesterly corner of Indian Reserve No. 45; thence easterly along the southerly boundary of Indian Reserve No. 45 to the southeasterly corner thereof; thence northerly along the easterly limit of Indian Reserve No. 45 to the easterly limit of the City of Sarnia; thence northerly along the said limit to Confederation Street; thence easterly along Confederation Street to Modeland Road; thence northerly along Modeland Road and its northerly prolongation to the northerly boundary of the Township of Sarnia.

THE ELECTORAL DISTRICT OF LANARK-RENFREW—consists of the County of Lanark, the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF LAWRENCE—consists of that part of the City of North York lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of North York with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Allen Road; thence southerly along Allen Road to the westerly prolongation of Baycrest Avenue; thence easterly along the said prolongation to and along Baycrest Avenue to Bathurst Street; thence southerly along Bathurst Street to Old Orchard Grove; thence easterly along Old Orchard Grove to the southerly limit of the City of North York.

THE ELECTORAL DISTRICT OF LEEDS-GRENVILLE—consists of the County of Leeds, the Town of Prescott, the Village of Merrickville and the townships of Augusta and Wolford.

THE ELECTORAL DISTRICT OF LINCOLN—consists of the towns of Grimsby, Lincoln and Pelham, the Township of West Lincoln, and that part of the City of St. Catharines lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of St. Catharines with Twelve Mile Creek; thence northerly along Twelve Mile Creek to the Queen Elizabeth Way; thence westerly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West;

thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON CENTRE—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to Huron Street; thence easterly along Huron Street to Clarke Side Road; thence southerly along Clarke Side Road and its southerly prolongation to the limit between the City of London and the Township of Westminster; thence westerly and southerly along the said limit to Commissioners Road; thence westerly along Commissioners Road to the Canadian National railway line; thence northwesterly along the said railway line to the easterly prolongation of Base Line Road; thence westerly to and along Base Line Road to Wharnccliffe Road South; thence northerly along Wharnccliffe Road South to the Thames River; thence easterly along the said river to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON NORTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London; thence westerly and southerly along the northerly and westerly limits of the said city to the Thames River; thence easterly along the Thames River to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON SOUTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of the westerly limit of the City of London with the Thames River; thence easterly along the Thames River to Wharnccliffe Road South; thence southerly along Wharnccliffe Road South to Base Line Road; thence easterly along Base Line Road and its easterly prolongation to the Canadian National railway line; thence southeasterly along the Canadian National railway line to Commissioners Road; thence easterly along Commissioners Road to the easterly limit of the City of London; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of London to the point of commencement.

THE ELECTORAL DISTRICT OF MARKHAM—consists of the Town of Markham.

THE ELECTORAL DISTRICT OF MIDDLESEX—consists of the County of Middlesex and Indian reserves No. 41 and No. 42 but excluding that part of the City of London lying westerly of a line described as follows: Commencing at the intersection of the Thames River with the southerly prolongation of Clarke Side Road; thence northerly to and along Clarke Side Road to Huron Street; thence westerly along Huron Street to Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London.

THE ELECTORAL DISTRICT OF MISSISSAUGA EAST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of Eglinton Avenue East with the easterly limit of the City of Mississauga; thence southerly along the easterly limit of the said city to Dundas Street East; thence southwesterly along Dundas Street East to Cawthra Road; thence southeasterly along Cawthra Road to the Queen Elizabeth Way; thence southwesterly along the Queen Elizabeth Way to Hurontario Street; thence northwesterly along Hurontario Street to Central Parkway East; thence easterly and northerly along Central Parkway East to Burnhamthorpe Road East; thence northeasterly along Burnhamthorpe Road East to Cawthra Road; thence northwesterly along Cawthra Road to Eglinton Avenue East;

thence northeasterly along Eglinton Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF MISSISSAUGA NORTH—consists of that part of the City of Mississauga lying northerly of Eglinton Avenue.

THE ELECTORAL DISTRICT OF MISSISSAUGA SOUTH—consists of that part of the City of Mississauga lying southerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Mississauga with the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to Cawthra Road; thence northwesterly along Cawthra Road to Dundas Street East; thence northeasterly along Dundas Street East to the easterly limit of the City of Mississauga.

THE ELECTORAL DISTRICT OF MISSISSAUGA WEST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of the westerly limit of the City of Mississauga with Eglinton Avenue West; thence northeasterly along Eglinton Avenue West and Eglinton Avenue East to Cawthra Road; thence southeasterly along Cawthra Road to Burnhamthorpe Road East; thence southwesterly along Burnhamthorpe Road East to Central Parkway East; thence southerly and westerly along Central Parkway East to Hurontario Street; thence southeasterly along Hurontario Street to the Queen Elizabeth Way; thence southwesterly along the Queen Elizabeth Way to the westerly limit of the City of Mississauga; thence northwesterly, southwesterly and northwesterly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF MUSKOKA-GEORGIAN BAY—consists of The District Municipality of Muskoka, the Town of Midland, the villages of Port McNicoll and Victoria Harbour and the townships of Matchedash and Tay.

THE ELECTORAL DISTRICT OF NEPEAN—consists of that part of the City of Nepean lying southerly and westerly of a line described as follows: Commencing at the intersection of the Rideau River with Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the northerly limit of the City of Nepean.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—consists of that part of the City of Niagara Falls lying northerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Willoughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NIAGARA SOUTH—consists of the City of Port Colborne, the Town of Fort Erie, the Township of Wainfleet, and that part of the City of Niagara Falls lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the

Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Wiloughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NICKEL BELT—consists of that part of the Territorial District of Sudbury lying northerly and westerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the east boundary of the geographic Township of Eden; thence southerly along the east boundary of the geographic townships of Eden, Bevin and Sale to the southerly boundary of the Territorial District of Sudbury; thence westerly along the said boundary to the southwest corner of the geographic Township of Roosevelt; thence northerly along the west boundary of the geographic townships of Roosevelt and Truman to the southeast corner of the Township of Nairn; thence westerly along the south boundary of the townships of Nairn and Baldwin to the southwest corner of the last mentioned township; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the westerly boundary of the Territorial District of Sudbury.

THE ELECTORAL DISTRICT OF NIPISSING—consists of that part of the Territorial District of Nipissing lying within the following limits: Commencing at the northwest corner of the geographic Township of Hugel; thence easterly along the north boundary of the geographic townships of Hugel and Badgerow to the northwest corner of the Township of Field; thence easterly along the north boundary of the Township of Field to the northeast corner thereof; thence easterly along the north boundary of the geographic townships of Grant, Charlton, Blyth, Merrick, Mulock, French, Butler and Antoine to the northeast corner of the last mentioned township; thence easterly along the prolongation of the north boundary of the geographic Township of Antoine to the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the northeast corner of the Township of Mattawan; thence westerly along the north boundary of the said township to the northwest corner thereof; thence southerly along the west boundary of the Township of Mattawan to the southwesterly corner thereof; thence westerly along the northerly boundary of the townships of Calvin, Bonfield and East Ferris to the northwesterly corner of the last mentioned township; thence southerly along the westerly boundary of the Township of East Ferris to the northeasterly corner of the Township of North Himsforth; thence westerly and northerly along the southerly and westerly boundaries of the Territorial District of Nipissing to the point of commencement.

THE ELECTORAL DISTRICT OF NORFOLK—consists of the City of Nanticoke, the towns of Simcoe and Tillsonburg and the townships of Delhi and Norfolk.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—consists of the County of Northumberland.

THE ELECTORAL DISTRICT OF OAKVILLE SOUTH—consists of that part of the Town of Oakville lying southerly of the Queen Elizabeth Way and that part of the City of Burlington lying within the following limits: Commencing at the intersection of the northeasterly limit of the City of Burlington with New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeasterly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OAKWOOD—consists of that part of the cities of York and Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Bathurst Street; thence southerly along Bathurst Street to the southerly limit of the City of York situated immediately north of St. Clair Avenue West; thence westerly along the said limit to the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York; thence easterly along the said limit to Allen Road; thence southerly along Allen Road to Eglinton Avenue West; thence easterly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ORIOLE—consists of that part of the City of North York lying northerly of the Macdonald-Cartier Freeway and easterly of Leslie Street.

THE ELECTORAL DISTRICT OF OSHAWA—consists of that part of the City of Oshawa lying southerly and easterly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence easterly along Taunton Road to the easterly limit of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA CENTRE—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with Island Park Drive; thence southerly along Island Park Drive to Merivale Road; thence southerly along Merivale Road to the southerly limit of the City of Ottawa; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to Heron Road; thence easterly along Heron Road to the Rideau Canal; thence northeasterly and northerly along the said canal to the northerly extremity thereof; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence westerly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA EAST—consists of the City of Vanier, and that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec and a line drawn on a course of north 45° 00' west from the northerly extremity of Rideau Canal; thence south 45° 00' east along the said line to the northerly extremity of the Rideau Canal; thence southerly along the said canal to the Queensway; thence easterly along the Queensway to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence southwesterly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park;

thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence southwesterly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA-RIDEAU—consists of that part of the cities of Gloucester, Nepean and Ottawa lying within the following limits: Commencing at the intersection of Clyde Avenue with the northerly limit of the City of Nepean; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to the Rideau Canal; thence southerly along the Rideau Canal to the Rideau River; thence southerly along the Rideau River to the westerly prolongation of Walkley Road; thence easterly along the said prolongation to and along Walkley Road to its easterly extremity; thence easterly along the easterly prolongation of Walkley Road to the easterly limit of the City of Ottawa; thence southerly and westerly along the easterly and southerly limits of the City of Ottawa to Conroy Road; thence southerly along Conroy Road to the King's Highway No. 31; thence southerly along said Highway to Leitrim Road; thence westerly along Leitrim Road to Albion Road; thence southerly along Albion Road to Leitrim Drive; thence westerly along Leitrim Drive to the westerly limit of the part of the Ottawa International Airport lying northerly of Leitrim Drive; thence northerly along the said westerly limit to the northerly limit of the City of Gloucester; thence westerly along the said limit to the Rideau River; thence southerly along the Rideau River to Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the easterly prolongation of Walkley Road; thence westerly along the said prolongation to and along Walkley Road and its westerly prolongation to the Rideau River; thence northerly along the Rideau River to the Rideau Canal; thence northerly and easterly along the Rideau Canal to the Queensway; thence easterly along the Queensway to the easterly limit of the City of Ottawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA WEST—consists of that part of the City of Ottawa lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Ottawa with Merivale Road; thence northerly along Merivale Road to Island Park Drive; thence northerly along Island Park Drive to the Interprovincial Boundary between Ontario and Quebec.

THE ELECTORAL DISTRICT OF OXFORD—consists of the County of Oxford but excluding the Town of Tillsonburg.

THE ELECTORAL DISTRICT OF PARKDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the southwesterly limit of the City of Toronto with the southerly prolongation of Roncesvalles Avenue; thence northerly along the said prolongation to and along Roncesvalles Avenue to Dundas Street West; thence northerly along Dundas Street West to Bloor Street West; thence easterly along Bloor Street West to Ossington Avenue; thence southerly along Ossington Avenue to College Street; thence westerly along College Street to Dovercourt Road; thence southerly along Dovercourt Road and its southerly prolongation to King

Street West; thence westerly along King Street West to Atlantic Avenue; thence southerly along Atlantic Avenue and its southerly prolongation to the Gardiner Expressway; thence easterly along the Gardiner Expressway to Strachan Avenue; thence southerly along Strachan Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF PARRY SOUND—consists of the Territorial District of Parry Sound and that part of the Territorial District of Nipissing, but excluding the Township of Airy and the geographic townships of Dickens, Lyell, Murchison and Sabine, lying southerly of a line described as follows: Commencing at the northeasterly corner of the Township of North Himsworth; thence northerly along the westerly boundary of the Township of East Ferris to the northwesterly corner thereof; thence easterly along the northerly boundary of the townships of East Ferris, Bonfield and Calvin to the southwesterly corner of the Township of Mattawan; thence northerly and easterly along the west and north boundaries of the Township of Mattawan to the northeasterly corner thereof.

THE ELECTORAL DISTRICT OF PERTH—consists of the County of Perth.

THE ELECTORAL DISTRICT OF PETERBOROUGH—consists of the City of Peterborough, the Village of Millbrook, the townships of Cavan, Ennismore, North Monaghan, South Monaghan and Smith, and Indian Reserve No. 35.

THE ELECTORAL DISTRICT OF PORT ARTHUR—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the southwest corner of the geographic Township of Adrian; thence northerly along the west boundary of the geographic townships of Adrian and Horne to the southerly boundary of the Dawson Road Lots; thence westerly, northerly and easterly along the southerly, westerly and northerly boundaries of the Dawson Road Lots to the west boundary of the geographic Township of Goldie; thence northerly along the west boundary of the geographic Township of Goldie to the northwest corner thereof; thence easterly along the north boundary of the geographic townships of Goldie and Forbes to the southeast corner of Block 1; thence northerly along the east boundary of the said block to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the geographic Township of Jacques to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along the said centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence southwesterly along the said International Boundary to the line of longitude $89^{\circ} 00'$; thence north astronomically along the said line of longitude to the easterly prolongation of the south limit of the former City of Port Arthur, as existing prior to January 1, 1970; thence westerly along the said prolongation to and along the south limit of the said former City of Port Arthur to Golf Links Road; thence northerly along Golf Links Road to the Harbour Access Route; thence westerly along the Harbour Access Route to the Lakehead Expressway; thence southerly along the Lakehead Expressway to the south limit of the former City of Port Arthur as existing prior to January 1, 1970; thence westerly along the said limit and the south boundary of the former Township of McIntyre as existing prior to Janu-

ary 1, 1970, to the northeast corner of the Township of Paipoonge; thence westerly along the north boundary of the said township to the northwest corner thereof; thence northerly along the east boundary of the Township of O'Connor to the northeast corner thereof; thence westerly along the north boundary of the Township of O'Connor to the southeast corner of the geographic Township of Adrian; thence westerly along the south boundary of the said township to the point of commencement.

THE ELECTORAL DISTRICT OF PRESCOTT AND RUSSELL—consists of the counties of Prescott and Russell and the Township of Cumberland.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—consists of the County of Prince Edward, the towns of Deseronto and Napanee, the Village of Bath, the townships of Adolphustown, Ernestown, North Fredericksburgh, Richmond, South Fredericksburgh, Thurlow and Tyendinaga, and Indian Reserve No. 38.

THE ELECTORAL DISTRICT OF QUINTE—consists of the cities of Belleville and Trenton, the Village of Frankford, and the Township of Sidney.

THE ELECTORAL DISTRICT OF RAINY RIVER—consists of the Territorial District of Rainy River and that part of the Territorial District of Kenora, excluding the community of English River, lying south of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the northwest corner of the geographic Township of Van Horne; thence easterly along the north boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east boundaries of the said township to the north boundary of the geographic Township of Zealand; thence easterly along the north boundary of the geographic townships of Zealand, Hartman and MacFie to the northeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay.

THE ELECTORAL DISTRICT OF RENFREW NORTH—consists of the Township of Airy, the geographic townships of Dickens, Lyell, Murchison and Sabine, and the County of Renfrew but excluding the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF RIVERDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the Don River with the northerly limit of the City of Toronto; thence easterly along the said limit to Coxwell Avenue; thence southerly along Coxwell Avenue to the Canadian National railway line; thence southwesterly along the said railway line to Greenwood Avenue; thence southerly along Greenwood Avenue to Queen Street East; thence westerly along Queen Street East to Leslie Street; thence southerly along Leslie Street and its southerly prolongation to the southerly limit of the City of Toronto; thence westerly along the said limit to the southerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence northerly along the said prolongation to and along the said centre line to the northerly extremity thereof; thence northerly along the

prolongation of the said centre line to the water's edge of Inner Harbour; thence easterly along the said water's edge to the northerly side of the Keating Channel; thence easterly along the said northerly side to the Don River; thence northerly along the Don River to the point of commencement.

THE ELECTORAL DISTRICT OF ST. ANDREW-ST. PATRICK—consists of that part of the cities of Toronto and York lying within the following limits: Commencing at the intersection of Yonge Street with College Street; thence westerly along College Street to Bathurst Street; thence northerly along Bathurst Street to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Allen Road; thence northerly along Allen Road to the northerly limit of the City of Toronto; thence easterly along the said limit to the southerly extremity of the course thereon oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence southerly along the prolongation of the said course in the northerly limit of the City of Toronto to Briar Hill Avenue; thence easterly along Briar Hill Avenue to Castlewood Road; thence southerly along Castlewood Road to Roselawn Avenue; thence westerly along Roselawn Avenue to Latimer Avenue; thence southerly along Latimer Avenue to Eglinton Avenue West; thence easterly along Eglinton Avenue West to Duncannon Drive; thence southerly along Duncannon Drive and its southerly prolongation to the abandoned Canadian National railway line situated immediately southwesterly of Chaplin Crescent; thence southeasterly along the said railway line to Yonge Street; thence southerly along Yonge Street to the easterly prolongation of Lonsdale Road; thence westerly along the said prolongation to and along Lonsdale Road to Avenue Road; thence southerly along Avenue Road to St. Clair Avenue West; thence easterly along St. Clair Avenue West to Yonge Street; thence southerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF ST. CATHARINES—consists of that part of the City of St. Catharines lying northerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West; thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. CATHARINES-BROCK—consists of the Town of Niagara-on-the-Lake and that part of the City of St. Catharines lying southerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Twelve Mile Creek; thence southerly along Twelve Mile Creek to the southerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. GEORGE-ST. DAVID—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Carlton Street with Yonge Street; thence northerly along Yonge Street to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Avenue Road; thence northerly along Avenue Road to Lonsdale Road; thence easterly along Lonsdale Road and its easterly prolongation to Yonge Street; thence southerly along Yonge Street to the southerly limit of Mount Pleasant Cemetery; thence easterly along the said limit to the westerly limit of the Borough of East York; thence southerly and easterly along the westerly and southerly limits of the said borough to the Don River; thence southerly along the Don River to the northerly side of the Keating Channel; thence westerly along the said northerly side to the water's edge of Inner Harbour; thence westerly along the said water's edge to the southerly prolongation of Sherbourne Street; thence northerly along the said prolongation to and along

Sherbourne Street to Carlton Street; thence westerly along Carlton Street to the point of commencement.

THE ELECTORAL DISTRICT OF SARNIA—consists of the City of Sarnia, the Village of Point Edward, that part of the Township of Sarnia lying westerly of Modeland Road and northerly of Confederation Street, and Indian Reserve No. 45.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—consists of the City of Sault Ste. Marie.

THE ELECTORAL DISTRICT OF SCARBOROUGH-AGINCOURT—consists of that part of the City of Scarborough lying northerly of the Macdonald-Cartier Freeway and westerly of the Canadian National railway line situated immediately east of Kennedy Road.

THE ELECTORAL DISTRICT OF SCARBOROUGH CENTRE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Lawrence Avenue East and Markham Road; thence southerly along Markham Road and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southerly prolongation of Wynnview Court; thence northerly along the said prolongation to and along Wynnview Court to the northerly extremity thereof; thence northerly in a straight line to the southerly extremity of Kennedy Road; thence northerly along Kennedy Road to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the Canadian National railway line situated immediately west of Midland Avenue; thence northerly along the said railway line to Lawrence Avenue East; thence easterly along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH EAST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Markham Road with Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northwesterly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Scarborough; thence southerly along the said limit to the southeasterly corner of the said city; thence westerly along the southerly limit of the said city to the southerly prolongation of Markham Road; thence northerly along the said prolongation to and along Markham Road to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH-ELLESMERE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the Macdonald-Cartier Freeway with Victoria Park Avenue; thence southerly along Victoria Park Avenue to Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northerly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH NORTH—consists of that part of the City of Scarborough lying northerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Scarborough with the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the Canadian National railway line situated immediately east of Kennedy Road; thence northerly along the said railway line to the northerly limit of the City of Scarborough.

THE ELECTORAL DISTRICT OF SCARBOROUGH WEST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the westerly limit of the City of Scarborough with Lawrence Avenue East; thence easterly along Lawrence Avenue East to the Canadian National railway line; thence southerly along the said railway line to Eglinton Avenue East; thence westerly along Eglinton Avenue East to Kennedy Road; thence southerly along Kennedy Road to the southerly extremity thereof; thence southerly in a straight line to the northerly extremity of Wynnview Court; thence southerly along Wynnview Court and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southwest corner of the said city; thence northerly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—consists of the City of Barrie, the Town of Bradford, and the townships of Innisfil, Vespra and West Gwillimbury.

THE ELECTORAL DISTRICT OF SIMCOE EAST—consists of the City of Orillia, the Town of Penetanguishene, the villages of Coldwater and Elmvale, the townships of Flos, Mara, Medonte, Orillia, Oro, Rama and Tiny, and Indian reserves No. 30 and No. 32.

THE ELECTORAL DISTRICT OF SIMCOE WEST—consists of the towns of Alliston, Collingwood, Stayner, and Wasaga Beach, the villages of Beeton, Cookstown, Creemore and Tottenham, and the townships of Adjala, Essa, Nottawasaga, Sunnidale, Tecumseth and Tosorontio.

THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY—consists of the towns of Alexandria and Kemptville, the villages of Cardinal, Chesterville, Finch, Iroquois, Lancaster, Maxville, Morrisburg and Winchester, and the townships of Edwardsburgh, Finch, Kenyon, Lancaster, Lochiel, Matilda, Mountain, Osnabrock, Oxford-on-Rideau, Roxborough, South Gower, Williamsburgh and Winchester.

THE ELECTORAL DISTRICT OF SUDBURY—consists of that part of the City of Sudbury lying within wards 1, 4, 5, 6, 7 and 8 and that part of wards 2 and 3 lying southerly of Lasalle Boulevard.

THE ELECTORAL DISTRICT OF SUDBURY EAST—consists of that part of the Territorial District of Sudbury lying within the following limits: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence easterly along the northerly limit of the City of Sudbury to the northeast corner of Ward 4; thence southerly along the easterly limit of Ward 4 to Lasalle Boulevard; thence easterly along Lasalle Boulevard to the easterly limit of the City of Sudbury; thence southerly along the said limit to the northeast corner of Ward 9; thence westerly along the north limit of Ward 9 to the westerly limit of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the west boundary of the geographic Township of Tilton; thence southerly along the west boundary of the geographic townships of Tilton, Halifax, Attlee, Kilpatrick and Travers to the boundary between the territorial districts of Sudbury and Parry Sound; thence easterly along the said boundary to the boundary between the territorial districts of Sudbury and Nipissing; thence westerly and northerly along the said boundary to the point of commencement.

THE ELECTORAL DISTRICT OF TIMISKAMING—consists of the Territorial District of Timiskaming and that part of the Territorial District of Nipissing lying northerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the easterly prolongation of the south boundary of the geographic Township of Eddy; thence westerly along the said prolongation to and along the south boundary of the geographic Township of Eddy and of the geographic townships of Jocko, Lockhart, Stewart, Notman, Lyman, Fell, Bastedo, Gibbons and Crerar to the southwest corner of the last mentioned township.

THE ELECTORAL DISTRICT OF VICTORIA-HALIBURTON—consists of the counties of Haliburton and Victoria but excluding the Township of Manvers.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—consists of the City of Waterloo and the townships of Wellesley and Woolwich.

THE ELECTORAL DISTRICT OF WELLAND-THOROLD—consists of the cities of Thorold and Welland.

THE ELECTORAL DISTRICT OF WELLINGTON—consists of the County of Wellington but excluding the City of Guelph.

THE ELECTORAL DISTRICT OF WENTWORTH EAST—consists of the Township of Glanbrook, the City of Stoney Creek and that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with the brow of Hamilton Mountain; thence southwesterly along the said brow to Redhill Creek; thence northerly along Redhill Creek to Queenston Road; thence easterly along Queenston Road to the easterly limit of the City of Hamilton; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF WENTWORTH NORTH—consists of the towns of Ancaster and Dundas and the Township of Flamborough.

THE ELECTORAL DISTRICT OF WILLOWDALE—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Yonge Street with the northerly limit of the City of North York; thence easterly along the said limit to Leslie Street; thence southerly along Leslie Street to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Bathurst Street; thence northerly along Bathurst Street to Finch Avenue West; thence easterly along Finch Avenue West to Yonge Street; thence northerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF WILSON HEIGHTS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Dufferin Street with the northerly limit of the City of North York; thence easterly along the said limit to Yonge Street; thence southerly along Yonge Street to Finch Avenue West; thence westerly along Finch Avenue West to Bathurst Street; thence southerly along Bathurst Street to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Avenue Road; thence southerly along Avenue Road to the westerly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence easterly along the said prolongation to the southerly limit of the City of North York; thence southerly along the said limit to Old Orchard Grove; thence westerly along Old Orchard Grove to Bathurst Street; thence northerly along Bathurst Street to Baycrest Avenue; thence westerly along Baycrest Avenue and its westerly prolongation to Allen Road; thence northerly along Allen Road to Dufferin Street; thence northerly along Dufferin Street to the point of commencement.

THE ELECTORAL DISTRICT OF WINDSOR-RIVERSIDE—consists of the Town of Tecumseh, the Village of St. Clair Beach and that part of the City of Windsor (including Peche Island) lying easterly of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Buckingham Drive; thence southerly along the said prolongation to and along Buckingham Drive to Wyandotte Street East; thence westerly along Wyandotte Street East to Raymo Road; thence southerly along Raymo Road and its southerly prolongation to the Canadian National railway line; thence westerly along the said railway line to the northerly prolongation of Norman Road; thence southerly along the said prolongation to and along Norman Road to Tecumseh Road East; thence westerly along Tecumseh Road East to the Chesapeake and Ohio railway line; thence southerly along the said railway line to the southerly limit of the City of Windsor.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—consists of the Township of Sandwich West and that part of the City of Windsor lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Windsor with Cabana Road West; thence easterly along Cabana Road West to Dougall Avenue; thence northerly along Dougall Avenue to Ouellette Place; thence northerly along Ouellette Place to Ouellette Avenue; thence northerly along Ouellette Avenue and its northerly prolongation to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—consists of that part of the City of Windsor lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Ouellette Avenue; thence southerly along the said prolongation to and along Ouellette Avenue to Ouellette Place; thence southerly along Ouellette Place to Dougall Avenue; thence southerly along Dougall Avenue to Cabana Road West; thence westerly along Cabana Road West to the southerly limit of the City of Windsor; thence easterly along the said limit to the Chesapeake and Ohio railway line; thence northerly along the said railway line to Tecumseh Road East; thence easterly along Tecumseh Road East to Norman Road; thence northerly along Norman Road and its northerly prolongation to the Canadian National railway line; thence easterly along the said railway line to the southerly prolongation of Raymo Road; thence northerly along the said prolongation to and along Raymo Road to Wyandotte Street East; thence easterly along Wyandotte Street East to Buckingham Drive; thence northerly along Buckingham Drive and its northerly prolongation to the International Boundary between Canada and the United States of America; thence westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF YORK CENTRE—consists of the towns of Richmond Hill and Vaughan.

THE ELECTORAL DISTRICT OF YORK EAST—consists of that part of the Borough of East York lying within the following limits: Commencing at the intersection of Chisholm Avenue with the southerly limit of the Borough of East York; thence westerly, northerly, easterly and southeasterly along the southerly, westerly and northerly limits of the said borough to Don Mills Road; thence southerly along Don Mills Road to the Don River; thence easterly along the Don River to Taylor Creek; thence southeasterly along Taylor Creek to the northerly prolongation of Chisholm Avenue; thence southerly along the said prolongation to and along Chisholm Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF YORK MILLS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Avenue Road with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of North York;

thence southerly along the said limit to Lawrence Avenue East; thence westerly along Lawrence Avenue East and its westerly prolongation to Don River West Branch; thence northwesterly along the Don River West Branch to the easterly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence westerly along the said prolongation to and along the southerly limit of the City of North York to the westerly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence westerly along the prolongation of the said course to Avenue Road; thence northerly along Avenue Road to the point of commencement.

THE ELECTORAL DISTRICT OF YORK NORTH—consists of the towns of Aurora and Newmarket and the Township of King.

THE ELECTORAL DISTRICT OF YORK SOUTH—consists of that part of the City of York lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of York with the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York.

THE ELECTORAL DISTRICT OF YORKVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence westerly and southerly along the northerly and westerly limits of the City of North York to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

Bill 77

*(Chapter 30
Statutes of Ontario, 1986)*

An Act to revise the Representation Act

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	June 11th, 1986
<i>2nd Reading</i>	July 8th, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

Bill 77

1986

An Act to revise the Representation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The boundaries of every territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward in any municipality shall for the purpose of this Act be deemed to be the boundaries of such territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward as defined by statute, by-law, proclamation or other lawful authority on the 6th day of January, 1986. Boundaries
2. The Legislative Assembly of Ontario shall consist of one hundred and thirty members. Number of members
- 3.—(1) Ontario shall, for the purpose of representation in the Assembly, be divided into electoral districts as set out in the Schedule. Division of Ontario into electoral districts
- (2) One member shall be returned to the Assembly for each electoral district. One member per electoral district
4. The boundaries of the electoral districts as set out in the Schedule shall not be affected by alterations in municipal or ward boundaries made after the 6th day of January, 1986. Changes in municipal or ward boundaries
5. Where a county, city, town, village, township, improvement district, borough, district municipality or regional municipality becomes incorporated and is not expressly included in an electoral district set out in the Schedule but is situated in part in two or more of such electoral districts, the electors entitled to vote in such municipality are entitled to vote in the electoral district in which they would have been entitled to vote if the county, city, town, village, township, improvement district, borough, district municipality or regional municipality had not become incorporated. Municipalities on boundary lines

Augmen-
tation
or gores of
townships

6. Except as otherwise expressly set out in the Schedule, every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situated.

Municipalities
included in
electoral
district in
which situate

7. Every county, city, town, village, township, improvement district, borough, district municipality and regional municipality heretofore or hereafter incorporated, situate wholly within an electoral district as set out in the Schedule and not expressly included in any other electoral district in the Schedule, shall form part of the electoral district in which it is situate.

Special Act
overruled

8. Every county, city, town, village, township, improvement district, borough, district municipality or regional municipality that by the provisions of any special Act passed before this Act comes into force forms or forms part of an electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule.

Repeal

9. The *Representation Act*, being chapter 450 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

10.—(1) This Act comes into force and has effect upon the first dissolution of the Legislature that occurs after the 31st day of August, 1986.

Idem
1984, c. 54
1986, c. 33

(2) Notwithstanding subsection (1), for the purposes only of the appointment of returning officers under the *Election Act, 1984* and the registration of constituency associations under the *Election Finances Act, 1986*, and matters ancillary thereto, to be in effect for the purposes of an election held after the dissolution of the Legislature specified in subsection (1), the electoral districts set out in the Schedule shall be deemed to be established on the day this Act receives Royal Assent.

Short title

11. The short title of this Act is the *Representation Act, 1986*.

SCHEDULE

In the following descriptions,

- (a) a reference to a road, water feature or railway line signifies the centre line of the road, water feature or railway line, unless otherwise provided;
- (b) a reference to a territorial division or a municipality refers to the territorial division or municipality as it existed on the 6th day of January, 1986; and
- (c) every city, town, village, township, improvement district, development area and Indian reserve lying within the perimeter of an electoral district is included in the electoral district unless otherwise provided.

ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA—consists of that part of the Territorial District of Algoma, but excluding the geographic townships of Ebbs and Templeton, lying northerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Redden; thence westerly along the south boundary of the geographic townships of Redden, Prescott, Plourde, Piche, Viel and Sagard to the northeast corner of the geographic Township of Nicholas; thence southerly along the east boundary of the geographic Township of Nicholas to the northwest corner of the Town of Elliot Lake; thence southerly along the west limit of the Town of Elliot Lake to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of that township to the southerly boundary of the Territorial District of Algoma; thence westerly along that boundary to the easterly limit of the City of Sault Ste. Marie; thence northerly along the easterly boundary of the City of Sault Ste. Marie to the northeast corner thereof; thence westerly along the north boundary of that city to the northwest corner thereof; thence southerly along the east boundary of the Township of Prince to the southeast corner thereof; thence westerly along the south boundary of the Township of Prince to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—consists of the Territorial District of Manitoulin and that part of the territorial districts of Algoma and Sudbury lying within the following limits: Commencing at the intersection of the southerly boundary of the Territorial District of Sudbury with the east boundary of the geographic Township of Curtin; thence northerly along the east boundary of the geographic townships of Curtin and Foster to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Foster and Merritt to the northeast corner of the Town of Espanola; thence westerly along the north boundary of the said town to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Merritt to the southeast corner of the geographic Township of Shakespeare; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the southeast corner of the geographic Township of Tennyson; thence northerly along the east boundary of the geographic townships of Tennyson, Boon, Mandamin and Strain to the northeast corner of the last mentioned township; thence westerly along the north boundary of the geographic townships of Strain, Teasdale, Poncet, Hughson, Hembruff and Raimbault to the northwest corner of the last mentioned township; thence southerly along the west boundary of the said township to the northwest corner of the Town of Elliott Lake; thence southerly along the west limit of the said town to the northwest corner of the Township of The North Shore; thence southerly along the west boundary of the said township to the southerly boundary of the Territorial District of Algoma; thence easterly along the southerly boundary of the territorial districts of Algoma and Sudbury to the point of commencement.

THE ELECTORAL DISTRICT OF BEACHES-WOODBINE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Queen Street East with Greenwood Avenue; thence northerly along Greenwood Avenue to the Canadian National railway line; thence northeasterly along the said railway line to Coxwell Avenue; thence northerly along Coxwell Avenue to the northerly limit of the City of Toronto; thence easterly along the said limit to the easterly limit of the said city; thence southerly along the said limit to the southeasterly corner of the City of Toronto; thence westerly along the southerly limit of the said city to the southerly prolongation of Leslie Street; thence northerly along the said prolongation to and along Leslie Street to Queen Street East; thence easterly along Queen Street East to the point of commencement.

THE ELECTORAL DISTRICT OF BRAMPTON NORTH—consists of that part of the City of Brampton lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRAMPTON SOUTH—consists of that part of the City of Brampton lying southerly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Brampton with the King's Highway No. 7; thence westerly along the said Highway to Queen Street East; thence westerly along Queen Street East to Kennedy Road; thence northerly along Kennedy Road to Vodden Street; thence westerly along Vodden Street to Main Street; thence northerly along Main Street and the King's Highway No. 10 to the King's Highway No. 7; thence westerly along said Highway to the westerly limit of the City of Brampton.

THE ELECTORAL DISTRICT OF BRANTFORD—consists of the City of Brantford.

THE ELECTORAL DISTRICT OF BRANT-HALDIMAND—consists of the County of Brant but excluding the City of Brantford; the towns of Dunnville and Haldimand, Indian reserves No. 40 and No. 40A, and the Township of North Dumfries but excluding that part lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF BRUCE—consists of the County of Bruce.

THE ELECTORAL DISTRICT OF BURLINGTON SOUTH—consists of that part of the City of Burlington lying southerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; thence southeasterly along the said limit to New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeasterly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington.

THE ELECTORAL DISTRICT OF CAMBRIDGE—consists of the City of Cambridge and of that part of the Township of North Dumfries lying within the geographic Township of Beverly.

THE ELECTORAL DISTRICT OF CARLETON—consists of the City of Kanata and the townships of Goulbourn, Osgoode, Rideau and West Carleton.

THE ELECTORAL DISTRICT OF CARLETON EAST—consists of the Village of Rockcliffe Park and of that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the Queensway; thence easterly along the Queensway to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence southwesterly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park; thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence easterly along the said Interprovincial Boundary to the northeasterly corner of the City of Gloucester; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of Gloucester to the northwesterly corner of the said city; thence easterly along the northerly limit of the City of Gloucester to the westerly limit of the Ottawa International Airport; thence southerly along the said limit to Leitrim Drive; thence easterly along Leitrim Drive to Albion Road; thence northerly along Albion Road to Leitrim Road; thence easterly along Leitrim Road to the King's Highway No. 31; thence northerly along said Highway to Conroy Road; thence northerly along Conroy Road to the southerly limit of the City of Ottawa; thence easterly and northerly along the southerly and easterly limits of the City of Ottawa to the point of commencement.

THE ELECTORAL DISTRICT OF CHATHAM-KENT—consists of the City of Chatham, the towns of Bothwell, Dresden and Wallaceburg and the townships of Camden, Chatham, Dover and Zone.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—consists of the geographic townships of Ebbs and Templeton; that part of the Territorial District of Cochrane lying northerly and westerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teffy; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid; and that part of the Territorial District of Kenora lying easterly of a line described as follows: Commencing at the northerly extremity of the boundary between the territorial districts of Cochrane and Thunder Bay; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—consists of that part of the Territorial District of Cochrane lying southerly and easterly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the water's edge along the southerly shore of Lake Abitibi; thence northwesterly along that water's edge to the south

boundary of the geographic Township of Galna; thence westerly along the south boundary of the geographic townships of Galna and Moody to the north limit of the Town of Iroquois Falls; thence westerly along the said limit to the northeast corner of the geographic Township of Teefty; thence westerly along the north boundary of the said township to the northwest corner thereof; thence westerly along the north limit of the Town of Iroquois Falls to the northwest corner thereof; thence southerly along the west limit of the said town to the north limit of the City of Timmins; thence westerly along the north limit of the said city to the northwest corner thereof; thence westerly along the north boundary of the geographic Township of Byers to the northwest corner thereof; thence southerly along the west boundary of the geographic townships of Byers, Cote and Massey to the south boundary of the geographic Township of Enid.

THE ELECTORAL DISTRICT OF CORNWALL—consists of the City of Cornwall, the townships of Charlottenburgh and Cornwall, and Indian Reserve No. 59.

THE ELECTORAL DISTRICT OF DON MILLS—consists of that part of the City of North York and of the Borough of East York lying within the following limits: Commencing at the intersection of Lawrence Avenue East with the easterly limit of the City of North York; thence southerly along the easterly limit of the City of North York and of the Borough of East York to the southerly limit of the said borough; thence westerly along the said southerly limit to Chisholm Avenue; thence northerly along Chisholm Avenue and its northerly prolongation to Taylor Creek; thence northwesterly along Taylor Creek to the Don River; thence westerly along the Don River to Don Mills Road; thence northerly along Don Mills Road to the southerly limit of the City of North York; thence northwesterly, westerly and northerly along the said limit to the easterly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence easterly on the easterly prolongation of the said course to the Don River West Branch; thence southeasterly along the Don River West Branch to the westerly prolongation of Lawrence Avenue East; thence easterly along the said prolongation to and along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF DOVERCOURT—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the southerly limit of the City of York with Bathurst Street; thence southerly along Bathurst Street to Bloor Street West; thence westerly along Bloor Street West to the Canadian National railway line situated immediately west of Helens Avenue; thence northerly along the said railway line to St. Clair Avenue West; thence westerly along St. Clair Avenue West to the Canadian National railway line situated immediately northeast of Weston Road; thence northwesterly along the said railway line to the northerly limit of the City of Toronto; thence easterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DOWNSVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence easterly along the said limit to Dufferin Street; thence southerly along Dufferin Street to Allen Road; thence southerly along Allen Road to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

THE ELECTORAL DISTRICT OF DUFFERIN-PEEL—consists of the County of Dufferin and the Town of Caledon.

THE ELECTORAL DISTRICT OF DURHAM CENTRE—consists of that part of the Town of Whitby lying southerly of Taunton Road and that part of the City of Oshawa lying within the following limits: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence westerly along Taunton Road to the westerly limit of the City of Oshawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DURHAM EAST—consists of that part of the City of Oshawa lying northerly of Taunton Road, that part of the Town of Whitby lying northerly of Taunton Road, the Town of Newcastle, the townships of Manvers and Scugog and Indian Reserve No. 34.

THE ELECTORAL DISTRICT OF DURHAM WEST—consists of the towns of Ajax and Pickering.

THE ELECTORAL DISTRICT OF DURHAM-YORK—consists of the towns of East Gwillimbury and Whitchurch-Stouffville, the townships of Brock, Georgina and Uxbridge, and Indian Reserve No. 33.

THE ELECTORAL DISTRICT OF EGLINTON—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Latimer Avenue; thence northerly along Latimer Avenue to Roselawn Avenue; thence easterly along Roselawn Avenue to Castlewood Road; thence northerly along Castlewood Road to Briar Hill Avenue; thence westerly along Briar Hill Avenue to the southerly prolongation of the course in the northerly limit of the City of Toronto oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence northerly along the said prolongation to the northerly limit of the City of Toronto; thence northerly, easterly and southerly along the said limit to the westerly limit of the Borough of East York; thence southerly along the said limit to the southerly limit of Mount Pleasant Cemetery; thence westerly along the said limit to Yonge Street; thence northerly along Yonge Street to the abandoned Canadian National railway line situated immediately south of Merton Street; thence northwesterly along the said railway line to the southerly prolongation of Duncannon Drive; thence northerly along the said prolongation to and along Duncannon Drive to Eglinton Avenue West; thence westerly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ELGIN—consists of the County of Elgin.

THE ELECTORAL DISTRICT OF ESSEX-KENT—consists of the towns of Belle River, Blenheim, Ridgetown and Tilbury, the villages of Erie Beach, Erieau, Highgate, Thamesville and Wheatley, and the townships of Harwich, Howard, Maidstone, Orford, Raleigh, Rochester, Romney, Sandwich South, Tilbury East, Tilbury North and Tilbury West.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—consists of the towns of Amherstburg, Essex, Harrow, Kingsville and Leamington, and the townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee.

THE ELECTORAL DISTRICT OF ETOBICOKE-HUMBER—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of Bloor Street West with Kipling Avenue; thence northerly along Kipling Avenue to The Westway; thence westerly along The Westway to Martin Grove Road; thence northerly along Martin Grove Road to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Etobicoke; thence southeasterly along the said limit to Bloor Street West; thence westerly along Bloor Street West to the point of commencement.

THE ELECTORAL DISTRICT OF ETOBICOKE-LAKESHORE—consists of that part of the City of Etobicoke lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Etobicoke with the Canadian Pacific railway line; thence northeasterly along the said railway line to Kipling Avenue; thence northerly along Kipling Avenue to Bloor Street West; thence easterly along Bloor Street West to the easterly limit of the City of Etobicoke.

THE ELECTORAL DISTRICT OF ETOBICOKE-REXDALE—consists of that part of the City of Etobicoke lying northerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF ETOBICOKE WEST—consists of that part of the City of Etobicoke lying within the following limits: Commencing at the intersection of the Canadian Pacific railway line with the westerly limit of the City of Etobicoke; thence northerly along the said limit to the Macdonald-Cartier Freeway; thence northeasterly along the Macdonald-Cartier Freeway to Martin Grove Road; thence southerly along Martin Grove Road to The Westway; thence easterly along The Westway to Kipling Avenue; thence southerly along Kipling Avenue to the Canadian Pacific railway line; thence southwesterly along the said railway line to the point of commencement.

THE ELECTORAL DISTRICT OF FORT WILLIAM—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn on a course of south astronomic from the southwest corner of the geographic Township of Devon; thence north astronomically along the said line to the southwest corner of the said township; thence northerly along the west boundary of the geographic townships of Devon, Fraleigh, Lybster and Marks to the northwest corner of the last mentioned township; thence easterly along the north boundary of the geographic Township of Marks to the northwest corner of the Township of O'Connor; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the Township of O'Connor to the northwest corner of the Township of Paipoonge; thence easterly along the north boundary of the said township to the northeast corner thereof; thence easterly along the north boundary of the former Township of Neebing and of the former City of Fort William, both as existing prior to January 1, 1970, to the Lakehead Expressway; thence northerly along the Lakehead Expressway to the Harbour Access Route; thence easterly along the Harbour Access Route to Golf Links Road; thence southerly along Golf Links Road to the north limit of the former City of Fort William, as existing prior to January 1, 1970; thence easterly along the said limit and its easterly prolongation to the line of longitude 89° 00'; thence south astronomically along the said line of longitude to the International Boundary between Canada and the United States of America; thence southwesterly and westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF FORT YORK—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Ossington Avenue with Bloor Street West; thence easterly along Bloor Street West to Bathurst Street; thence southerly along Bathurst Street to College Street; thence easterly along College Street to Carlton Street; thence easterly along Carlton Street to Sherbourne Street; thence southerly along Sherbourne Street and its southerly prolongation to the water's edge of Inner Harbour; thence easterly along the said water's edge to the northerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence southerly along the said prolongation to and along the said centre line to the southerly extremity thereof; thence southerly along the prolongation of the said centre line to the southerly limit of the City of Toronto; thence westerly and northwesterly along the southerly and southwesterly limits of the said city to the

southerly prolongation of Strachan Avenue; thence northerly along the said prolongation to and along Strachan Avenue to the Gardiner Expressway; thence westerly along the Gardiner Expressway to the southerly prolongation of Atlantic Avenue; thence northerly along the said prolongation to and along Atlantic Avenue to King Street West; thence easterly along King Street West to the southerly prolongation of Dovercourt Road; thence northerly along the said prolongation to and along Dovercourt Road to College Street; thence easterly along College Street to Ossington Avenue; thence northerly along Ossington Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—consists of that part of the County of Frontenac lying northerly of a line described as follows: Commencing at the intersection of the easterly limit of the Township of Pittsburg with the Macdonald-Cartier Freeway; thence southwesterly along the Macdonald-Cartier Freeway to the northerly limit of the City of Kingston; thence westerly and southerly along the northerly and westerly limits of the City of Kingston to the shore of Lake Ontario; thence westerly along the said shore to the westerly boundary of the Township of Kingston; and that part of the County of Lennox and Addington lying northerly of a line described as follows: Commencing at the southeasterly corner of the Township of Camden East; thence westerly along the southerly boundary of the Township of Camden East to the southeasterly corner of the Village of Newburgh; thence westerly along the southerly limit of the said village to the southerly boundary of the Township of Camden East; thence westerly along the southerly limit of the said township to the southwest corner thereof; thence northerly along the westerly boundary of the said township to the northeasterly corner of the Township of Richmond.

THE ELECTORAL DISTRICT OF GREY—consists of the County of Grey.

THE ELECTORAL DISTRICT OF GUELPH—consists of the City of Guelph.

THE ELECTORAL DISTRICT OF HALTON CENTRE—consists of that part of the City of Burlington lying northerly and westerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Burlington with the King's Highway No. 403; thence northeasterly along said Highway to the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to the northeasterly limit of the City of Burlington; and that part of the Town of Milton lying southerly of Derry Road; and that part of the Town of Oakville lying northerly of the Queen Elizabeth Way.

THE ELECTORAL DISTRICT OF HALTON NORTH—consists of the Town of Halton Hills and that part of the Town of Milton lying northerly of Derry Road.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Queen Street with King Street; thence westerly along King Street to Chedoke Expressway; thence northerly along Chedoke Expressway to the Desjardins Canal; thence westerly along said canal to the westerly limit of the City of Hamilton; thence northerly and easterly along the westerly and northerly limits of the said city to the northerly prolongation of Sherman Avenue; thence southerly along the said prolongation to and along Sherman Avenue to Cannon Street; thence easterly along Cannon Street to Gage Avenue; thence southerly along Gage Avenue and its southerly prolongation to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly prolongation of Queen Street; thence northerly along the said prolongation to and along Queen Street to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON EAST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with Queenston Road; thence westerly

along Queenston Road to Redhill Creek; thence southerly along Redhill Creek to the brow of Hamilton Mountain; thence westerly along the said brow to the southerly prolongation of Gage Avenue; thence northerly along the said prolongation to and along Gage Avenue to Cannon Street; thence westerly along Cannon Street to Sherman Avenue; thence northerly along Sherman Avenue and its northerly prolongation to the northerly limit of the City of Hamilton; thence easterly along the northerly limit of the said city to the northeasterly corner thereof; thence southerly along the easterly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON MOUNTAIN—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the southerly limit of the City of Hamilton with Upper James Street; thence northerly along Upper James Street to Fennell Avenue; thence easterly along Fennell Avenue to Upper Wellington Street; thence northerly along Upper Wellington Street and its northerly prolongation as aligned between Inverness Avenue and Concession Avenue to the brow of Hamilton Mountain; thence easterly along the said brow to the easterly limit of the City of Hamilton; thence southerly and westerly along the easterly and southerly limits of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON WEST—consists of that part of the City of Hamilton lying within the following limits: Commencing at the intersection of Upper James Street with the southerly limit of the City of Hamilton; thence westerly and northerly along the southerly and westerly limits of the said city to the Desjardins Canal; thence easterly along the said canal to the Chedoke Expressway; thence southerly along the Chedoke Expressway to King Street; thence easterly along King Street to Queen Street; thence southerly along Queen Street and its southerly prolongation to the brow of Hamilton Mountain; thence easterly along the said brow to the northerly prolongation of Upper Wellington Street as aligned between Inverness Avenue and Concession Avenue; thence southerly along the said prolongation to and along Upper Wellington Street to Fennell Avenue; thence westerly along Fennell Avenue to Upper James Street; thence southerly along Upper James Street to the point of commencement.

THE ELECTORAL DISTRICT OF HASTINGS-PETERBOROUGH—consists of that part of the County of Hastings lying northerly of a line described as follows: Commencing at the southwesterly corner of the Township of Rawdon; thence easterly along the southerly boundary of the said township to the westerly limit of the Village of Stirling; thence southerly, easterly and northerly along the westerly, southerly and easterly limits of the said village to the southerly boundary of the Township of Rawdon; thence easterly along the said boundary to the southwesterly corner of the Township of Huntingdon; thence easterly along the southerly boundary of the said township to the southwesterly corner of the Township of Hungerford; thence easterly along the southerly boundary of the said township to the southeasterly corner thereof; and the villages of Havelock, Lakefield and Norwood, and the townships of Asphodel, Belmont and Methuen, Burleigh and Anstruther, Chandos, Douro, Dummer, Galway and Cavendish, Harvey, and Otonabee.

THE ELECTORAL DISTRICT OF HIGH PARK-SWANSEA—consists of that part of the City of Toronto lying westerly of a line described as follows: Commencing at the intersection of the northerly limit of the City of Toronto with the Canadian National railway line situated immediately northeast of Weston Road; thence southeasterly along the said railway line to St. Clair Avenue West; thence easterly along St. Clair Avenue West to the Canadian National railway line situated immediately west of Caledonia Park Road; thence southerly along the said railway line to Bloor Street West; thence westerly along Bloor Street West to Dundas Street West; thence southerly along Dundas Street West to

Roncesvalles Avenue; thence southerly along Roncesvalles Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto.

THE ELECTORAL DISTRICT OF HURON—consists of the County of Huron.

THE ELECTORAL DISTRICT OF KENORA—consists of that part of the Territorial District of Kenora lying northerly and westerly of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the southwest corner of the geographic Township of Wainwright; thence easterly along the south boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east limits of the said township to the south boundary of the geographic Township of Brownridge; thence easterly along the south boundary of the geographic townships of Brownridge, Laval and McAree to the southeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay; thence northerly along the said boundary to the northwesterly corner of the Territorial District of Thunder Bay; thence continuing northerly along a meridian line to the 215 + 78.207 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1957; thence north astronomically to the Interprovincial Boundary between Ontario and Manitoba.

THE ELECTORAL DISTRICT OF KINGSTON AND THE ISLANDS—consists of the City of Kingston, the townships of Amherst Island, Howe Island, and Wolfe Island, and that part of the Township of Pittsburgh lying southerly of the Macdonald-Cartier Freeway.

THE ELECTORAL DISTRICT OF KITCHENER—consists of that part of the City of Kitchener lying northerly and westerly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF KITCHENER-WILMOT—consists of the Township of Wilmot and that part of the City of Kitchener lying southerly and easterly of the Conestoga Parkway.

THE ELECTORAL DISTRICT OF LAKE NIPIGON—consists of the community of English River in the Territorial District of Kenora and that part of the territorial districts of Kenora and Thunder Bay lying within the following limits: Commencing at the 215 + 78.207 Mile Post planted on a meridian line in the Territorial District of Kenora surveyed by A. Tarvydas, O.L.S., in 1957; thence southerly along that meridian line to the northerly extremity of the west boundary of the Territorial District of Thunder Bay; thence southerly along the said boundary to the International Boundary between Canada and the United States of America; thence easterly along the said International Boundary to the intersection with a line drawn south astronomic from the southeast corner of the geographic Township of Hartington; thence north astronomically along that line to the southeast corner of the geographic Township of Hartington; thence northerly along the east boundary of the geographic townships of Hartington, Lismore, Strange, Aldina, Sackville, Laurie and Blackwell to the northeast corner of the last mentioned township; thence easterly along the south boundary of the geographic Township of Soper and of Block 1 to the southeast corner of Block 1; thence northerly along the east boundary of

Block 1 to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the said township to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along that centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence northeasterly and southeasterly along the said International Boundary to the southeast corner of the Territorial District of Thunder Bay; thence northerly, westerly and northerly along the east boundary of the Territorial District of Thunder Bay to the northeast corner thereof; thence northerly along a meridian line to the 212 Mile Post planted thereon by A. Tarvydas, O.L.S., in 1958; thence north astronomically to the shore of Hudson Bay; thence northwesterly along the said shore to the Interprovincial Boundary between Ontario and Manitoba; thence southwesterly along the said Interprovincial Boundary to the intersection with a line drawn north astronomic from the point of commencement; thence south astronomically along the said line to the point of commencement.

THE ELECTORAL DISTRICT OF LAMBTON—consists of that part of the County of Lambton lying southerly and easterly of a line described as follows: Commencing at the southwesterly corner of Indian Reserve No. 45; thence easterly along the southerly boundary of Indian Reserve No. 45 to the southeasterly corner thereof; thence northerly along the easterly limit of Indian Reserve No. 45 to the easterly limit of the City of Sarnia; thence northerly along the said limit to Confederation Street; thence easterly along Confederation Street to Modeland Road; thence northerly along Modeland Road and its northerly prolongation to the northerly boundary of the Township of Sarnia.

THE ELECTORAL DISTRICT OF LANARK-RENFREW—consists of the County of Lanark, the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF LAWRENCE—consists of that part of the City of North York lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of North York with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Allen Road; thence southerly along Allen Road to the westerly prolongation of Baycrest Avenue; thence easterly along the said prolongation to and along Baycrest Avenue to Bathurst Street; thence southerly along Bathurst Street to Old Orchard Grove; thence easterly along Old Orchard Grove to the southerly limit of the City of North York.

THE ELECTORAL DISTRICT OF LEEDS-GRENVILLE—consists of the County of Leeds, the Town of Prescott, the Village of Merrickville and the townships of Augusta and Wolford.

THE ELECTORAL DISTRICT OF LINCOLN—consists of the towns of Grimsby, Lincoln and Pelham, the Township of West Lincoln, and that part of the City of St. Catharines lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of St. Catharines with Twelve Mile Creek; thence northerly along Twelve Mile Creek to the Queen Elizabeth Way; thence westerly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West;

thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON CENTRE—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to Huron Street; thence easterly along Huron Street to Clarke Side Road; thence southerly along Clarke Side Road and its southerly prolongation to the limit between the City of London and the Township of Westminster; thence westerly and southerly along the said limit to Commissioners Road; thence westerly along Commissioners Road to the Canadian National railway line; thence northwesterly along the said railway line to the easterly prolongation of Base Line Road; thence westerly to and along Base Line Road to Wharncliffe Road South; thence northerly along Wharncliffe Road South to the Thames River; thence easterly along the said river to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON NORTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of Oxford Street with Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London; thence westerly and southerly along the northerly and westerly limits of the said city to the Thames River; thence easterly along the Thames River to the North Thames River; thence northerly along the North Thames River to Oxford Street; thence easterly along Oxford Street to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON SOUTH—consists of that part of the City of London lying within the following limits: Commencing at the intersection of the westerly limit of the City of London with the Thames River; thence easterly along the Thames River to Wharncliffe Road South; thence southerly along Wharncliffe Road South to Base Line Road; thence easterly along Base Line Road and its easterly prolongation to the Canadian National railway line; thence southeasterly along the Canadian National railway line to Commissioners Road; thence easterly along Commissioners Road to the easterly limit of the City of London; thence southerly, westerly and northerly along the easterly, southerly and westerly limits of the City of London to the point of commencement.

THE ELECTORAL DISTRICT OF MARKHAM—consists of the Town of Markham.

THE ELECTORAL DISTRICT OF MIDDLESEX—consists of the County of Middlesex and Indian reserves No. 41 and No. 42 but excluding that part of the City of London lying westerly of a line described as follows: Commencing at the intersection of the Thames River with the southerly prolongation of Clarke Side Road; thence northerly to and along Clarke Side Road to Huron Street; thence westerly along Huron Street to Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London.

THE ELECTORAL DISTRICT OF MISSISSAUGA EAST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of Eglinton Avenue East with the easterly limit of the City of Mississauga; thence southerly along the easterly limit of the said city to Dundas Street East; thence southwesterly along Dundas Street East to Cawthra Road; thence southeasterly along Cawthra Road to the Queen Elizabeth Way; thence southwesterly along the Queen Elizabeth Way to Hurontario Street; thence northwesterly along Hurontario Street to Central Parkway East; thence easterly and northerly along Central Parkway East to Burnhamthorpe Road East; thence northeasterly along Burnhamthorpe Road East to Cawthra Road; thence northwesterly along Cawthra Road to Eglinton Avenue East;

thence northeasterly along Eglinton Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF MISSISSAUGA NORTH—consists of that part of the City of Mississauga lying northerly of Eglinton Avenue.

THE ELECTORAL DISTRICT OF MISSISSAUGA SOUTH—consists of that part of the City of Mississauga lying southerly of a line described as follows: Commencing at the intersection of the southwesterly limit of the City of Mississauga with the Queen Elizabeth Way; thence northeasterly along the Queen Elizabeth Way to Cawthra Road; thence northwesterly along Cawthra Road to Dundas Street East; thence northeasterly along Dundas Street East to the easterly limit of the City of Mississauga.

THE ELECTORAL DISTRICT OF MISSISSAUGA WEST—consists of that part of the City of Mississauga lying within the following limits: Commencing at the intersection of the westerly limit of the City of Mississauga with Eglinton Avenue West; thence northeasterly along Eglinton Avenue West and Eglinton Avenue East to Cawthra Road; thence southeasterly along Cawthra Road to Burnhamthorpe Road East; thence southwesterly along Burnhamthorpe Road East to Central Parkway East; thence southerly and westerly along Central Parkway East to Hurontario Street; thence southeasterly along Hurontario Street to the Queen Elizabeth Way; thence southwesterly along the Queen Elizabeth Way to the westerly limit of the City of Mississauga; thence northwesterly, southwesterly and northwesterly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF MUSKOKA-GEORGIAN BAY—consists of The District Municipality of Muskoka, the Town of Midland, the villages of Port McNicoll and Victoria Harbour and the townships of Matchedash and Tay.

THE ELECTORAL DISTRICT OF NEPEAN—consists of that part of the City of Nepean lying southerly and westerly of a line described as follows: Commencing at the intersection of the Rideau River with Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the northerly limit of the City of Nepean.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—consists of that part of the City of Niagara Falls lying northerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Willoughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NIAGARA SOUTH—consists of the City of Port Colborne, the Town of Fort Erie, the Township of Wainfleet, and that part of the City of Niagara Falls lying southerly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Niagara Falls with McLeod Road; thence easterly along McLeod Road to Stanley Avenue; thence southerly along Stanley Avenue and its southerly prolongation to the

Welland River; thence easterly along the Welland River to a line drawn northwesterly and perpendicularly to Main Street from the intersection of Main Street with Sodom Road; thence southeasterly along the said line to the intersection of Main Street with Sodom Road; thence southerly along Sodom Road to Weinbrenner Road; thence easterly along Weinbrenner Road to Wiloughby Drive; thence easterly along Edgeworth Road and its easterly prolongation to the water's edge along the shore of the Niagara River; thence south 45° 00' east to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF NICKEL BELT—consists of that part of the Territorial District of Sudbury lying northerly and westerly of a line described as follows: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the east boundary of the geographic Township of Eden; thence southerly along the east boundary of the geographic townships of Eden, Bevin and Sale to the southerly boundary of the Territorial District of Sudbury; thence westerly along the said boundary to the southwest corner of the geographic Township of Roosevelt; thence northerly along the west boundary of the geographic townships of Roosevelt and Truman to the southeast corner of the Township of Nairn; thence westerly along the south boundary of the townships of Nairn and Baldwin to the southwest corner of the last mentioned township; thence westerly along the south boundary of the geographic townships of Shakespeare and Gough to the westerly boundary of the Territorial District of Sudbury.

THE ELECTORAL DISTRICT OF NIPISSING—consists of that part of the Territorial District of Nipissing lying within the following limits: Commencing at the northwest corner of the geographic Township of Hugel; thence easterly along the north boundary of the geographic townships of Hugel and Badgerow to the northwest corner of the Township of Field; thence easterly along the north boundary of the Township of Field to the northeast corner thereof; thence easterly along the north boundary of the geographic townships of Grant, Charlton, Blyth, Merrick, Mulock, French, Butler and Antoine to the northeast corner of the last mentioned township; thence easterly along the prolongation of the north boundary of the geographic Township of Antoine to the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the northeast corner of the Township of Mattawan; thence westerly along the north boundary of the said township to the northwest corner thereof; thence southerly along the west boundary of the Township of Mattawan to the southwesterly corner thereof; thence westerly along the northerly boundary of the townships of Calvin, Bonfield and East Ferris to the northwesterly corner of the last mentioned township; thence southerly along the westerly boundary of the Township of East Ferris to the northeasterly corner of the Township of North Himsworth; thence westerly and northerly along the southerly and westerly boundaries of the Territorial District of Nipissing to the point of commencement.

THE ELECTORAL DISTRICT OF NORFOLK—consists of the City of Nanticoke, the towns of Simcoe and Tillsonburg and the townships of Delhi and Norfolk.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—consists of the County of Northumberland.

THE ELECTORAL DISTRICT OF OAKVILLE SOUTH—consists of that part of the Town of Oakville lying southerly of the Queen Elizabeth Way and that part of the City of Burlington lying within the following limits: Commencing at the intersection of the northeasterly limit of the City of Burlington with New Street; thence southwesterly along New Street to Appleby Line; thence southeasterly along Appleby Line to Appleby Place; thence southeasterly along Appleby Place and its southeasterly prolongation to the shore of Lake Ontario; thence northeasterly along the said shore to the northeasterly limit of the City of Burlington; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OAKWOOD—consists of that part of the cities of York and Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West with Bathurst Street; thence southerly along Bathurst Street to the southerly limit of the City of York situated immediately north of St. Clair Avenue West; thence westerly along the said limit to the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York; thence easterly along the said limit to Allen Road; thence southerly along Allen Road to Eglinton Avenue West; thence easterly along Eglinton Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF ORIOLE—consists of that part of the City of North York lying northerly of the Macdonald-Cartier Freeway and easterly of Leslie Street.

THE ELECTORAL DISTRICT OF OSHAWA—consists of that part of the City of Oshawa lying southerly and easterly of a line described as follows: Commencing at the intersection of the westerly limit of the City of Oshawa with King Street West; thence easterly along King Street West to Ritson Road North; thence northerly along Ritson Road North to Taunton Road; thence easterly along Taunton Road to the easterly limit of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA CENTRE—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with Island Park Drive; thence southerly along Island Park Drive to Merivale Road; thence southerly along Merivale Road to the southerly limit of the City of Ottawa; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to Heron Road; thence easterly along Heron Road to the Rideau Canal; thence northeasterly and northerly along the said canal to the northerly extremity thereof; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence westerly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA EAST—consists of the City of Vanier, and that part of the cities of Gloucester and Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec and a line drawn on a course of north 45° 00' west from the northerly extremity of Rideau Canal; thence south 45° 00' east along the said line to the northerly extremity of the Rideau Canal; thence southerly along the said canal to the Queensway; thence easterly along the Queensway to Blair Road; thence northerly along Blair Road to Montreal Road; thence westerly along Montreal Road to the easterly limit of the City of Vanier; thence northerly along the said limit to Beechwood Avenue; thence southwesterly along Beechwood Avenue to the limit between the City of Ottawa and the Village of Rockcliffe Park; thence northerly and westerly along the said limit to the most northwesterly corner of the Village of Rockcliffe Park;

thence northeasterly along the northwesterly limit of the Village of Rockcliffe Park to Princess Avenue; thence northwesterly along Princess Avenue to Rockcliffe Driveway; thence north 45° 00' west to the Interprovincial Boundary between Ontario and Quebec; thence southwesterly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA-RIDEAU—consists of that part of the cities of Gloucester, Nepean and Ottawa lying within the following limits: Commencing at the intersection of Clyde Avenue with the northerly limit of the City of Nepean; thence easterly along the said limit and its easterly prolongation to Fisher Avenue; thence northerly along Fisher Avenue to Base Line Road; thence easterly along Base Line Road to the Rideau Canal; thence southerly along the Rideau Canal to the Rideau River; thence southerly along the Rideau River to the westerly prolongation of Walkley Road; thence easterly along the said prolongation to and along Walkley Road to its easterly extremity; thence easterly along the easterly prolongation of Walkley Road to the easterly limit of the City of Ottawa; thence southerly and westerly along the easterly and southerly limits of the City of Ottawa to Conroy Road; thence southerly along Conroy Road to the King's Highway No. 31; thence southerly along said Highway to Leitrim Road; thence westerly along Leitrim Road to Albion Road; thence southerly along Albion Road to Leitrim Drive; thence westerly along Leitrim Drive to the westerly limit of the part of the Ottawa International Airport lying northerly of Leitrim Drive; thence northerly along the said westerly limit to the northerly limit of the City of Gloucester; thence westerly along the said limit to the Rideau River; thence southerly along the Rideau River to Black Rapids Creek; thence westerly along Black Rapids Creek to Woodroffe Avenue; thence northerly along Woodroffe Avenue to the Canadian National-Canadian Pacific railway line; thence easterly along the said railway line to Merivale Road; thence northerly along Merivale Road to Clyde Avenue; thence northerly along Clyde Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—consists of that part of the City of Ottawa lying within the following limits: Commencing at the intersection of the easterly limit of the City of Ottawa with the easterly prolongation of Walkley Road; thence westerly along the said prolongation to and along Walkley Road and its westerly prolongation to the Rideau River; thence northerly along the Rideau River to the Rideau Canal; thence northerly and easterly along the Rideau Canal to the Queensway; thence easterly along the Queensway to the easterly limit of the City of Ottawa; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA WEST—consists of that part of the City of Ottawa lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Ottawa with Merivale Road; thence northerly along Merivale Road to Island Park Drive; thence northerly along Island Park Drive to the Interprovincial Boundary between Ontario and Quebec.

THE ELECTORAL DISTRICT OF OXFORD—consists of the County of Oxford but excluding the Town of Tillsonburg.

THE ELECTORAL DISTRICT OF PARKDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the southwesterly limit of the City of Toronto with the southerly prolongation of Roncesvalles Avenue; thence northerly along the said prolongation to and along Roncesvalles Avenue to Dundas Street West; thence northerly along Dundas Street West to Bloor Street West; thence easterly along Bloor Street West to Ossington Avenue; thence southerly along Ossington Avenue to College Street; thence westerly along College Street to Dovercourt Road; thence southerly along Dovercourt Road and its southerly prolongation to King

Street West; thence westerly along King Street West to Atlantic Avenue; thence southerly along Atlantic Avenue and its southerly prolongation to the Gardiner Expressway; thence easterly along the Gardiner Expressway to Strachan Avenue; thence southerly along Strachan Avenue and its southerly prolongation to the southwesterly limit of the City of Toronto; thence northwesterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF PARRY SOUND—consists of the Territorial District of Parry Sound and that part of the Territorial District of Nipissing, but excluding the Township of Airy and the geographic townships of Dickens, Lyell, Murchison and Sabine, lying southerly of a line described as follows: Commencing at the northeasterly corner of the Township of North Himsforth; thence northerly along the westerly boundary of the Township of East Ferris to the northwesterly corner thereof; thence easterly along the northerly boundary of the townships of East Ferris, Bonfield and Calvin to the southwesterly corner of the Township of Mattawan; thence northerly and easterly along the west and north boundaries of the Township of Mattawan to the northeasterly corner thereof.

THE ELECTORAL DISTRICT OF PERTH—consists of the County of Perth.

THE ELECTORAL DISTRICT OF PETERBOROUGH—consists of the City of Peterborough, the Village of Millbrook, the townships of Cavan, Ennismore, North Monaghan, South Monaghan and Smith, and Indian Reserve No. 35.

THE ELECTORAL DISTRICT OF PORT ARTHUR—consists of that part of the Territorial District of Thunder Bay lying within the following limits: Commencing at the southwest corner of the geographic Township of Adrian; thence northerly along the west boundary of the geographic townships of Adrian and Horne to the southerly boundary of the Dawson Road Lots; thence westerly, northerly and easterly along the southerly, westerly and northerly boundaries of the Dawson Road Lots to the west boundary of the geographic Township of Goldie; thence northerly along the west boundary of the geographic Township of Goldie to the northwest corner thereof; thence easterly along the north boundary of the geographic townships of Goldie and Forbes to the southeast corner of Block 1; thence northerly along the east boundary of the said block to the northwest corner of the geographic Township of Fowler; thence easterly along the north boundary of the geographic townships of Fowler and Jacques to the northeast corner of the last mentioned township; thence southerly along the east boundary of the geographic Township of Jacques to the north boundary of the geographic Township of Gorham; thence easterly along the north boundary of the said township to the northeast corner thereof; thence southerly along the east boundary of the geographic Township of Gorham to the northwest corner of the Township of Shuniah; thence easterly and northerly along the north and west boundaries of the Township of Shuniah to the southwest corner of the Township of Dorion; thence easterly along the south boundary of the said township to the southeast corner thereof; thence east astronomically to the centre line of Black Bay of Lake Superior; thence southerly along the said centre line to the southerly extremity thereof; thence south astronomically to the International Boundary between Canada and the United States of America; thence southwesterly along the said International Boundary to the line of longitude 89° 00'; thence north astronomically along the said line of longitude to the easterly prolongation of the south limit of the former City of Port Arthur, as existing prior to January 1, 1970; thence westerly along the said prolongation to and along the south limit of the said former City of Port Arthur to Golf Links Road; thence northerly along Golf Links Road to the Harbour Access Route; thence westerly along the Harbour Access Route to the Lakehead Expressway; thence southerly along the Lakehead Expressway to the south limit of the former City of Port Arthur as existing prior to January 1, 1970; thence westerly along the said limit and the south boundary of the former Township of McIntyre as existing prior to Janu-

ary 1, 1970, to the northeast corner of the Township of Paipoonge; thence westerly along the north boundary of the said township to the northwest corner thereof; thence northerly along the east boundary of the Township of O'Connor to the northeast corner thereof; thence westerly along the north boundary of the Township of O'Connor to the southeast corner of the geographic Township of Adrian; thence westerly along the south boundary of the said township to the point of commencement.

THE ELECTORAL DISTRICT OF PRESCOTT AND RUSSELL—consists of the counties of Prescott and Russell and the Township of Cumberland.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—consists of the County of Prince Edward, the towns of Deseronto and Napanee, the Village of Bath, the townships of Adolphustown, Ernestown, North Fredericksburgh, Richmond, South Fredericksburgh, Thurlow and Tyendinaga, and Indian Reserve No. 38.

THE ELECTORAL DISTRICT OF QUINTE—consists of the cities of Belleville and Trenton, the Village of Frankford, and the Township of Sidney.

THE ELECTORAL DISTRICT OF RAINY RIVER—consists of the Territorial District of Rainy River and that part of the Territorial District of Kenora, excluding the community of English River, lying south of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with a line drawn west astronomic from the westerly extremity of the 4th Base Line at the westerly shore of Aulneau Peninsula; thence east astronomically along the said line to the westerly extremity of the said 4th Base Line; thence easterly along the said base line to the 6th Meridian Line surveyed by A. Niven, O.L.S., in 1894; thence northerly along the 6th Meridian Line to the northwest corner of the geographic Township of Van Horne; thence easterly along the north boundary of the said township to the northwest corner of the Town of Dryden; thence southerly and easterly along the westerly and southerly limits of the said town to the west limit of the Township of Barclay; thence northerly, easterly and southerly along the west, north and east boundaries of the said township to the north boundary of the geographic Township of Zealand; thence easterly along the north boundary of the geographic townships of Zealand, Hartman and MacFie to the northeast corner of the last mentioned township; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the southwest corner of Block 9; thence easterly along the south boundary of the said block to the southeast corner thereof; thence easterly along the base line run by Phillips and Benner, O.L.S., in 1932, to the boundary between the territorial districts of Kenora and Thunder Bay.

THE ELECTORAL DISTRICT OF RENFREW NORTH—consists of the Township of Airy, the geographic townships of Dickens, Lyell, Murchison and Sabine, and the County of Renfrew but excluding the towns of Arnprior and Renfrew, the Village of Braeside and the townships of Admaston, Bagot and Blithfield, Horton and McNab.

THE ELECTORAL DISTRICT OF RIVERDALE—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the Don River with the northerly limit of the City of Toronto; thence easterly along the said limit to Coxwell Avenue; thence southerly along Coxwell Avenue to the Canadian National railway line; thence southwesterly along the said railway line to Greenwood Avenue; thence southerly along Greenwood Avenue to Queen Street East; thence westerly along Queen Street East to Leslie Street; thence southerly along Leslie Street and its southerly prolongation to the southerly limit of the City of Toronto; thence westerly along the said limit to the southerly prolongation of the centre line of Eastern Channel of Inner Harbour; thence northerly along the said prolongation to and along the said centre line to the northerly extremity thereof; thence northerly along the

prolongation of the said centre line to the water's edge of Inner Harbour; thence easterly along the said water's edge to the northerly side of the Keating Channel; thence easterly along the said northerly side to the Don River; thence northerly along the Don River to the point of commencement.

THE ELECTORAL DISTRICT OF ST. ANDREW-ST. PATRICK—consists of that part of the cities of Toronto and York lying within the following limits: Commencing at the intersection of Yonge Street with College Street; thence westerly along College Street to Bathurst Street; thence northerly along Bathurst Street to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Allen Road; thence northerly along Allen Road to the northerly limit of the City of Toronto; thence easterly along the said limit to the southerly extremity of the course thereon oriented in a northerly and southerly direction and situated immediately west of Proudfoot Avenue; thence southerly along the prolongation of the said course in the northerly limit of the City of Toronto to Briar Hill Avenue; thence easterly along Briar Hill Avenue to Castlewood Road; thence southerly along Castlewood Road to Roselawn Avenue; thence westerly along Roselawn Avenue to Latimer Avenue; thence southerly along Latimer Avenue to Eglinton Avenue West; thence easterly along Eglinton Avenue West to Duncannon Drive; thence southerly along Duncannon Drive and its southerly prolongation to the abandoned Canadian National railway line situated immediately southwesterly of Chaplin Crescent; thence south-easterly along the said railway line to Yonge Street; thence southerly along Yonge Street to the easterly prolongation of Lonsdale Road; thence westerly along the said prolongation to and along Lonsdale Road to Avenue Road; thence southerly along Avenue Road to St. Clair Avenue West; thence easterly along St. Clair Avenue West to Yonge Street; thence southerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF ST. CATHARINES—consists of that part of the City of St. Catharines lying northerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Martindale Road; thence northerly along Martindale Road to Lakeshore Road West; thence westerly along Lakeshore Road West to Courtleigh Road; thence northerly along Courtleigh Road and its northerly prolongation to the northerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. CATHARINES-BROCK—consists of the Town of Niagara-on-the-Lake and that part of the City of St. Catharines lying southerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of St. Catharines with the Queen Elizabeth Way; thence northwesterly along the Queen Elizabeth Way to Twelve Mile Creek; thence southerly along Twelve Mile Creek to the southerly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF ST. GEORGE-ST. DAVID—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of Carlton Street with Yonge Street; thence northerly along Yonge Street to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Avenue Road; thence northerly along Avenue Road to Lonsdale Road; thence easterly along Lonsdale Road and its easterly prolongation to Yonge Street; thence southerly along Yonge Street to the southerly limit of Mount Pleasant Cemetery; thence easterly along the said limit to the westerly limit of the Borough of East York; thence southerly and easterly along the westerly and southerly limits of the said borough to the Don River; thence southerly along the Don River to the northerly side of the Keating Channel; thence westerly along the said northerly side to the water's edge of Inner Harbour; thence westerly along the said water's edge to the southerly prolongation of Sherbourne Street; thence northerly along the said prolongation to and along

Sherbourne Street to Carlton Street; thence westerly along Carlton Street to the point of commencement.

THE ELECTORAL DISTRICT OF SARNIA—consists of the City of Sarnia, the Village of Point Edward, that part of the Township of Sarnia lying westerly of Modeland Road and northerly of Confederation Street, and Indian Reserve No. 45.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—consists of the City of Sault Ste. Marie.

THE ELECTORAL DISTRICT OF SCARBOROUGH-AGINCOURT—consists of that part of the City of Scarborough lying northerly of the Macdonald-Cartier Freeway and westerly of the Canadian National railway line situated immediately east of Kennedy Road.

THE ELECTORAL DISTRICT OF SCARBOROUGH CENTRE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Lawrence Avenue East and Markham Road; thence southerly along Markham Road and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southerly prolongation of Wynnview Court; thence northerly along the said prolongation to and along Wynnview Court to the northerly extremity thereof; thence northerly in a straight line to the southerly extremity of Kennedy Road; thence northerly along Kennedy Road to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the Canadian National railway line situated immediately west of Midland Avenue; thence northerly along the said railway line to Lawrence Avenue East; thence easterly along Lawrence Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH EAST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of Markham Road with Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northwesterly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of Scarborough; thence southerly along the said limit to the southeasterly corner of the said city; thence westerly along the southerly limit of the said city to the southerly prolongation of Markham Road; thence northerly along the said prolongation to and along Markham Road to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH-ELLESMERE—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the Macdonald-Cartier Freeway with Victoria Park Avenue; thence southerly along Victoria Park Avenue to Lawrence Avenue East; thence easterly along Lawrence Avenue East to West Highland Creek; thence northerly along West Highland Creek to Highland Creek; thence northerly along Highland Creek to an unnamed creek immediately west of the westerly extremity of Silversand Place; thence northerly along the said unnamed creek to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH NORTH—consists of that part of the City of Scarborough lying northerly and easterly of a line described as follows: Commencing at the intersection of the easterly limit of the City of Scarborough with the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to the Canadian National railway line situated immediately east of Kennedy Road; thence northerly along the said railway line to the northerly limit of the City of Scarborough.

THE ELECTORAL DISTRICT OF SCARBOROUGH WEST—consists of that part of the City of Scarborough lying within the following limits: Commencing at the intersection of the westerly limit of the City of Scarborough with Lawrence Avenue East; thence easterly along Lawrence Avenue East to the Canadian National railway line; thence southerly along the said railway line to Eglinton Avenue East; thence westerly along Eglinton Avenue East to Kennedy Road; thence southerly along Kennedy Road to the southerly extremity thereof; thence southerly in a straight line to the northerly extremity of Wynnview Court; thence southerly along Wynnview Court and its southerly prolongation to the southerly limit of the City of Scarborough; thence westerly along the said limit to the southwest corner of the said city; thence northerly along the westerly limit of the said city to the point of commencement.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—consists of the City of Barrie, the Town of Bradford, and the townships of Innisfil, Vespra and West Gwillimbury.

THE ELECTORAL DISTRICT OF SIMCOE EAST—consists of the City of Orillia, the Town of Penetanguishene, the villages of Coldwater and Elmvale, the townships of Flos, Mara, Medonte, Orillia, Oro, Rama and Tiny, and Indian reserves No. 30 and No. 32.

THE ELECTORAL DISTRICT OF SIMCOE WEST—consists of the towns of Alliston, Collingwood, Stayner, and Wasaga Beach, the villages of Beeton, Cookstown, Creemore and Tottenham, and the townships of Adjala, Essa, Nottawasaga, Sunnidale, Tecumseth and Tosorontio.

THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY—consists of the towns of Alexandria and Kemptville, the villages of Cardinal, Chesterville, Finch, Iroquois, Lancaster, Maxville, Morrisburg and Winchester, and the townships of Edwardsburgh, Finch, Kenyon, Lancaster, Lochiel, Matilda, Mountain, Osnabruck, Oxford-on-Rideau, Roxborough, South Gower, Williamsburgh and Winchester.

THE ELECTORAL DISTRICT OF SUDBURY—consists of that part of the City of Sudbury lying within wards 1, 4, 5, 6, 7 and 8 and that part of wards 2 and 3 lying southerly of Lasalle Boulevard.

THE ELECTORAL DISTRICT OF SUDBURY EAST—consists of that part of the Territorial District of Sudbury lying within the following limits: Commencing at the southeast corner of the geographic Township of Janes; thence westerly along the south boundary of the geographic townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly, northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly, easterly and southerly along the limits of the Town of Valley East to the northwest corner of the City of Sudbury; thence easterly along the northerly limit of the City of Sudbury to the northeast corner of Ward 4; thence southerly along the easterly limit of Ward 4 to Lasalle Boulevard; thence easterly along Lasalle Boulevard to the easterly limit of the City of Sudbury; thence southerly along the said limit to the northeast corner of Ward 9; thence westerly along the north limit of Ward 9 to the westerly limit of the City of Sudbury; thence southerly along the westerly limit of the City of Sudbury to the southwest corner thereof; thence easterly along the southerly limit of the City of Sudbury to the west boundary of the geographic Township of Tilton; thence southerly along the west boundary of the geographic townships of Tilton, Halifax, Attlee, Kilpatrick and Travers to the boundary between the territorial districts of Sudbury and Parry Sound; thence easterly along the said boundary to the boundary between the territorial districts of Sudbury and Nipissing; thence westerly and northerly along the said boundary to the point of commencement.

THE ELECTORAL DISTRICT OF TIMISKAMING—consists of the Territorial District of Timiskaming and that part of the Territorial District of Nipissing lying northerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the easterly prolongation of the south boundary of the geographic Township of Eddy; thence westerly along the said prolongation to and along the south boundary of the geographic Township of Eddy and of the geographic townships of Jocko, Lockhart, Stewart, Notman, Lyman, Fell, Bastedo, Gibbons and Crerar to the southwest corner of the last mentioned township.

THE ELECTORAL DISTRICT OF VICTORIA-HALIBURTON—consists of the counties of Haliburton and Victoria but excluding the Township of Manvers.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—consists of the City of Waterloo and the townships of Wellesley and Woolwich.

THE ELECTORAL DISTRICT OF WELLAND-THOROLD—consists of the cities of Thorold and Welland.

THE ELECTORAL DISTRICT OF WELLINGTON—consists of the County of Wellington but excluding the City of Guelph.

THE ELECTORAL DISTRICT OF WENTWORTH EAST—consists of the Township of Glanbrook, the City of Stoney Creek and that part of the City of Hamilton lying within the following limits: Commencing at the intersection of the easterly limit of the City of Hamilton with the brow of Hamilton Mountain; thence southwesterly along the said brow to Redhill Creek; thence northerly along Redhill Creek to Queenston Road; thence easterly along Queenston Road to the easterly limit of the City of Hamilton; thence southerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF WENTWORTH NORTH—consists of the towns of Ancaster and Dundas and the Township of Flamborough.

THE ELECTORAL DISTRICT OF WILLOWDALE—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Yonge Street with the northerly limit of the City of North York; thence easterly along the said limit to Leslie Street; thence southerly along Leslie Street to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Bathurst Street; thence northerly along Bathurst Street to Finch Avenue West; thence easterly along Finch Avenue West to Yonge Street; thence northerly along Yonge Street to the point of commencement.

THE ELECTORAL DISTRICT OF WILSON HEIGHTS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Dufferin Street with the northerly limit of the City of North York; thence easterly along the said limit to Yonge Street; thence southerly along Yonge Street to Finch Avenue West; thence westerly along Finch Avenue West to Bathurst Street; thence southerly along Bathurst Street to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Avenue Road; thence southerly along Avenue Road to the westerly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence easterly along the said prolongation to the southerly limit of the City of North York; thence southerly along the said limit to Old Orchard Grove; thence westerly along Old Orchard Grove to Bathurst Street; thence northerly along Bathurst Street to Baycrest Avenue; thence westerly along Baycrest Avenue and its westerly prolongation to Allen Road; thence northerly along Allen Road to Dufferin Street; thence northerly along Dufferin Street to the point of commencement.

THE ELECTORAL DISTRICT OF WINDSOR-RIVERSIDE—consists of the Town of Tecumseh, the Village of St. Clair Beach and that part of the City of Windsor (including Peche Island) lying easterly of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Buckingham Drive; thence southerly along the said prolongation to and along Buckingham Drive to Wyandotte Street East; thence westerly along Wyandotte Street East to Raymo Road; thence southerly along Raymo Road and its southerly prolongation to the Canadian National railway line; thence westerly along the said railway line to the northerly prolongation of Norman Road; thence southerly along the said prolongation to and along Norman Road to Tecumseh Road East; thence westerly along Tecumseh Road East to the Chesapeake and Ohio railway line; thence southerly along the said railway line to the southerly limit of the City of Windsor.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—consists of the Township of Sandwich West and that part of the City of Windsor lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of Windsor with Cabana Road West; thence easterly along Cabana Road West to Dougall Avenue; thence northerly along Dougall Avenue to Ouellette Place; thence northerly along Ouellette Place to Ouellette Avenue; thence northerly along Ouellette Avenue and its northerly prolongation to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—consists of that part of the City of Windsor lying within the following limits: Commencing at the intersection of the International Boundary between Canada and the United States of America with the northerly prolongation of Ouellette Avenue; thence southerly along the said prolongation to and along Ouellette Avenue to Ouellette Place; thence southerly along Ouellette Place to Dougall Avenue; thence southerly along Dougall Avenue to Cabana Road West; thence westerly along Cabana Road West to the southerly limit of the City of Windsor; thence easterly along the said limit to the Chesapeake and Ohio railway line; thence northerly along the said railway line to Tecumseh Road East; thence easterly along Tecumseh Road East to Norman Road; thence northerly along Norman Road and its northerly prolongation to the Canadian National railway line; thence easterly along the said railway line to the southerly prolongation of Raymo Road; thence northerly along the said prolongation to and along Raymo Road to Wyandotte Street East; thence easterly along Wyandotte Street East to Buckingham Drive; thence northerly along Buckingham Drive and its northerly prolongation to the International Boundary between Canada and the United States of America; thence westerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF YORK CENTRE—consists of the towns of Richmond Hill and Vaughan.

THE ELECTORAL DISTRICT OF YORK EAST—consists of that part of the Borough of East York lying within the following limits: Commencing at the intersection of Chisholm Avenue with the southerly limit of the Borough of East York; thence westerly, northerly, easterly and southeasterly along the southerly, westerly and northerly limits of the said borough to Don Mills Road; thence southerly along Don Mills Road to the Don River; thence easterly along the Don River to Taylor Creek; thence southeasterly along Taylor Creek to the northerly prolongation of Chisholm Avenue; thence southerly along the said prolongation to and along Chisholm Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF YORK MILLS—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Avenue Road with the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the City of North York;

thence southerly along the said limit to Lawrence Avenue East; thence westerly along Lawrence Avenue East and its westerly prolongation to Don River West Branch; thence northwesterly along the Don River West Branch to the easterly prolongation of the course in the southerly limit of the City of North York oriented in an easterly and westerly direction and situated immediately north of Glen Echo Road; thence westerly along the said prolongation to and along the southerly limit of the City of North York to the westerly extremity of the course thereon oriented in an easterly and westerly direction and situated immediately south of Brooke Avenue; thence westerly along the prolongation of the said course to Avenue Road; thence northerly along Avenue Road to the point of commencement.

THE ELECTORAL DISTRICT OF YORK NORTH—consists of the towns of Aurora and Newmarket and the Township of King.

THE ELECTORAL DISTRICT OF YORK SOUTH—consists of that part of the City of York lying westerly of a line described as follows: Commencing at the intersection of the southerly limit of the City of York with the Canadian National railway line situated immediately east of Blackthorn Avenue; thence northerly along the said railway line to Eglinton Avenue West; thence westerly along Eglinton Avenue West to Keele Street; thence northerly along Keele Street to the northerly limit of the City of York.

THE ELECTORAL DISTRICT OF YORKVIEW—consists of that part of the City of North York lying within the following limits: Commencing at the intersection of Black Creek with the northerly limit of the City of North York; thence westerly and southerly along the northerly and westerly limits of the City of North York to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Jane Street; thence northerly along Jane Street to Finch Avenue West; thence easterly along Finch Avenue West to Black Creek; thence northerly along Black Creek to the point of commencement.

Bill 78

An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes

The Hon. A. Curling
Minister of Housing

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill replaces the provisions of the *Residential Tenancies Act* that govern rent review matters with a new Act, to be called the *Residential Rent Regulation Act, 1985*.

Among the principal features of the new Act proposed by the Bill are the following:

1. The percentage amount by which a landlord may increase the rent charged for a rental unit without applying for an order permitting the landlord to do so is set at 4 per cent in respect of rent increases that take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987; in respect of rent increases that take effect on or after the 1st day of January, 1987, the percentage will be calculated annually in accordance with a prescribed schedule.
2. Three categories of rental units that are exempt from rent review under the *Residential Tenancies Act* are, under the Bill, made subject to rent regulation effective the 1st day of August, 1985. These are,
 - i. a rental unit situate in a building, no part of which was occupied as a rental unit before the 1st day of January, 1976,
 - ii. a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976, and
 - iii. a rental unit the monthly rental for which is in excess of \$750 (regardless of when that level of rent was reached).
3. A landlord who desires to increase the rent charged for a rental unit by more than the relevant percentage is required to apply, in the first instance, to the Minister of Housing for an order permitting the landlord to do so. The authority to consider such an application and make an order may be delegated by the Minister to named officials of the Ministry of Housing. Procedures are set out in the Bill to be followed where such an application is made.
4. A board to be known as the Rent Review Hearings Board is established to which a landlord or a tenant may appeal from an order made on the initial application. That appeal will be conducted as a hearing *de novo*. A further appeal lies on a question of law from an order of that Board to the Divisional Court.
5. Provision is made for the establishment of a rent registry that will initially compile information on the rent charged and other relevant matters in respect of residential complexes containing more than six rental units; at a future date to be prescribed, the registry will be expanded to include such rental information in respect of residential complexes containing six or fewer rental units. Landlords will be required to file the actual rent being charged for a rental unit on the 1st day of July, 1985, or if a rental unit is not rented on that date, the rent charged when it is first rented. Tenants may dispute within a specified time period the amount of the actual rent as recorded in the rent registry; otherwise the rent recorded is deemed to be the lawful rent.
6. Where an order has been made under the *Residential Tenancies Act*, or is made under the new Act proposed by the Bill, for a rent increase because of an increase in financing costs, tenants may, at the time those increased costs are no longer borne by the landlord, apply for a reduction in the rents being charged.
7. The interim restraint on the pass-through of increased financing costs resulting from the purchase of a residential complex, contained in the *Residential Complexes Financing Costs Restraint Act, 1982*, is placed on a permanent footing. The suspension of the 2 per cent relief of hardship provision contained in that

Act is, however, lifted. Restored also is the provision permitting equalization of rents for similar rental units, under certain conditions, which had been suspended under the operation of that Act.

8. The Lieutenant Governor in Council is empowered to prescribe by regulation procedural rules and administrative policies and these will be binding on the Minister or the Minister's delegates and on the Board in the interpretation and application of the Act; additional extensive regulation-making powers are conferred on the Lieutenant Governor in Council to prescribe in detail the manner in which applications under the Act will be dealt with.
9. The Bill contains an expanded offences provision; it will, for example, be an offence for a landlord to charge a rent that is in excess of that permitted under the Act.
10. A landlord's increased operating costs will be allowed at a fixed percentage on an application for permission to charge a higher rent.
11. Provisions are included in the Bill that set out the consequences, and the procedures to be followed, where a landlord has increased the rent charged for a previously exempt rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent.

Bill 78**1986**

**An Act to provide for the
Regulation of Rents charged for
Rental Units in Residential Complexes**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Rent Review Hearings Board established under this Act;

“landlord” includes the owner, or other person permitting occupancy of a rental unit, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

“mail” means first-class, registered or certified mail;

“maximum rent” means the lawful maximum rent which could be charged for a rental unit had all statutory increases or other increases permitted under this Act been taken;

“Minister” means the Minister of Housing or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“Ministry” means the ministry of the Minister;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

“mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

R.S.O. 1980,
c. 91

“non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof,
- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

“prescribed” means prescribed by the regulations made under this Act;

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing but does not include,

- (a) any amount required by the *Retail Sales Tax Act* to be collected from a tenant by a landlord, or R.S.O. 1980,
c. 454
- (b) any amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home owned by a tenant;

“rental unit” means any living accommodation or site for a mobile home used or intended for use as rented residential premises;

“residential complex” means a building, related group of buildings or mobile home park, in which one or more rental units are located, including a rental unit contained in a complex registered under the *Condominium Act* or a related group of units in a complex registered under that Act, and includes all common areas, services and facilities available for the use of residents of the building, buildings or park; R.S.O. 1980,
c. 84

“services and facilities” includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning or maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities or services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services or facilities;

“statutory increase” means the amount by which the rent charged for a rental unit may be increased without application to the Minister;

“subsidized public housing” means a rental unit rented to persons or families of low or modest income who pay an amount geared-to-income for that unit by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*;

R.S.C. 1970,
c. N-10

R.S.O. 1980,
cc. 209, 339

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

“tenant” means a person who pays rent in return for the right to occupy a rental unit and his or her heirs, assigns and personal representatives and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

Application
of Act

2.—(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Conflict
1981, c. 53

(2) Where a provision of this Act conflicts with a provision of any other Act, except the *Human Rights Code, 1981*, the provision of this Act applies.

Act binds
Crown

3. This Act is binding on the Crown.

Exemptions
from Act

4.—(1) This Act does not apply to,

- (a) transient living accommodation provided in a hotel, motel, inn, tourist home or hostel;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;

- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,
 - (i) the living accommodation is provided primarily to persons under the age of majority, or
 - (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households:

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him or her of services related to, a non-residential business or enterprise carried on in the building or project;
- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit.

(2) This Act, except for Part I, does not apply to,

Idem

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the

Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof except that where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply;

- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, or situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);
- (c) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;
- (d) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

R.S.C. 1970,
c. N-10

Subsidized
public
housing

(3) This Act does not apply to an increase in the amount geared-to-income paid by a tenant in subsidized public housing who is occupying a rental unit, other than a unit referred to in clause (2) (a) or (b), but this Act does apply to the unit itself.

PART I

NOTICE OF RENT INCREASES

Notice of
rent increase

5.—(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant a notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Increase void where no notice

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase is intended to take effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice unnecessary for new tenant

(4) A notice of rent increase given in compliance with this section and section 17 shall be deemed to be sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

Notice of rent increase deemed in compliance with R.S.O. 1980, c. 232, ss. 123, 129 (1)

6.—(1) Where a tenant who has been given a notice of an intended rent increase under section 5 fails to give the landlord proper notice of termination, the tenant shall be deemed to have accepted the amount of rent increase that does not exceed the amount allowed under this Act.

Where tenant fails to give notice of termination

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in subsection (1) does not constitute a waiver of the tenant's rights to take whatever proceedings are available under this Act for the regulation of rent increases.

Deemed acceptance not to constitute waiver of tenant's rights

7. Where a notice of an intended rent increase has been given under section 5, a rent increase up to the lesser of,

Rent chargeable until order takes effect

(a) the intended rent increase specified in the notice; and

(b) the limit imposed by subsection 50 (1).

may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

PART II

GENERAL

8. The Minister is responsible for the administration of this Act.

Adminis-
tration

9. The Minister may by order establish regions in Ontario for the purposes of this Act.

Minister may establish regions

Proceedings
in region

10. An application to the Minister and an appeal to the Board may only be made, and all proceedings under this Act shall be held, in the region in which the residential complex in question is situate unless the Minister or the Board, as the case may be, otherwise directs.

Duties of
Minister

11. The Minister shall,

- (a) provide information and advice to the public on all residential tenancy matters including referral where appropriate to social services and public housing agencies;
- (b) investigate cases of alleged failure to comply with an order made under this Act or to comply otherwise with the provisions of this Act and, where the circumstances warrant, commence or cause to be commenced proceedings in respect of the offence; and
- (c) take an active role in ensuring that landlords and tenants are aware of the benefits and obligations established by this Act.

Delegation

12. The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

Exclusive
jurisdiction
of Minister
and Board

13.—(1) Subject to subsections (4) and (5), the Minister and, on appeal, the Board, have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Minister and the Board.

Procedural
rules and
adminis-
trative
policies

(2) The Minister and the Board, in the interpretation and administration of this Act, shall observe such procedural rules and administrative policies as are prescribed.

Board may
determine
application
of Act, etc.

(3) The Board, on the application of a landlord or a tenant, may make a binding determination as to,

- (a) whether this Act applies to a particular living accommodation;
- (b) the rental units, common areas, services and facilities that are included in a particular residential complex; and

- (c) any other matter of concern that may arise respecting the application of this Act.

(4) In respect of any proceedings under this Act, the Minister shall not accept an application and the Board shall not accept an appeal where the amount claimed by any party to the application is in excess of \$3,000 and neither the Minister nor the Board shall make an order for the payment of money in excess of \$3,000.

Where
amount
claimed by
party over
\$3,000

(5) Where, under this Act, a person claims a sum of money in excess of \$3,000, he or she may institute proceedings therefor in any court of competent jurisdiction.

Court
jurisdiction

PART III

PROCEDURE

14. A person may make an application to the Minister as a landlord or as a tenant, provided the person was a landlord or a tenant at the time the conduct giving rise to the application occurred.

Who may
make
application

15.—(1) An application to the Minister shall be made in the prescribed form and shall be signed by the person making the application or his or her agent.

Form of
application

(2) Where an application is brought against an occupant and the name of the occupant is not known to the person bringing the application, the name of the occupant may be shown in the application as "occupant" and any proceedings may be taken against, and all orders shall be binding on, the person occupying the rental unit as if the occupant had been correctly named.

Where name
of occupant
not known

(3) Where an application is brought against a landlord and the name of the landlord is not known to the person bringing the application, the name of the landlord may be shown in the application as "landlord" and any proceedings may be taken against, and all orders shall be binding on, the landlord as if the landlord had been correctly named.

Where name
of landlord
not known

16.—(1) Where a landlord makes an application to the Minister, the landlord shall within ten days give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

Landlord
must give
copy of
application to
tenant, etc.

Tenant must give copy of application to landlord

(2) Where a tenant makes an application to the Minister, the tenant shall within ten days give a copy of the application to the landlord.

Where new landlord or new tenant

(3) Where, before an order is made in respect of any application to the Minister, a landlord or tenant is succeeded by a new landlord or tenant, the applicant shall within ten days of becoming aware of such change give the new landlord or tenant a copy of the application.

Minister may give written directions

(4) The Minister shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Minister shall be deemed to be compliance with this section.

Extension of time for application, etc.

(5) The Minister may, whether or not the time for making an application to the Minister or giving the application to any party or filing any documents has expired and where the Minister is of the opinion that it would not be unfair to do so, extend the time for the making of the application to the Minister or giving the application to any party or the filing of any documents.

Application of subss. (1-5) to appeals

(6) The provisions of subsections (1) to (5) apply with necessary modifications to the filing of notices of appeal with the Board under Part VII of this Act.

Method of giving notice, etc.

17.—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by,

(a) handing it to the person, or,

(i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or

(ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;

(b) leaving it in the mail box where mail is ordinarily delivered to the person;

(c) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or

(d) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing.

Where notice
given by
mail

(3) Despite the other provisions of this section, the Minister or the Board, as the case may be, may in writing direct a notice or document to be given in any other manner.

Minister or
Board may
give written
directions

(4) Despite the other provisions of this section, a notice or document shall be deemed to have been validly given where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended within the times for the giving of notice or documents under this Act.

Actual notice
is sufficient

(5) The method for the computation of time set out in the Rules of Civil Procedure apply to the computation of time under this Act.

Computation
of time

18. Subject to subsection 65 (5), the parties to an application or an appeal are the persons making the application or appeal, any person entitled to receive a copy of the application or a notice of appeal and any person added as a party by the Minister or the Board.

Parties to
application
or appeal

19. Where, in any proceedings under this Act, the Minister or the Board is of the opinion that,

Changing
parties;
amending
applications

- (a) a person who should have been included as a party has not been included as a party or that a party has been incorrectly named, the Minister or the Board, as the case may be, shall, unless it would be unfair to do so, require that the person be substituted or added as a party to the proceedings, or be correctly named;
- (b) a person who has been included as a party should not be included as a party, the Minister or the Board, as the case may be, shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application or the notice of appeal is justified and fair, the Minister or the Board, as the case may be, may direct the application or notice of appeal be amended accordingly.

20. The Minister or the Board, as the case may be, may refuse to accept any application or appeal or to continue any proceedings where, in the opinion of the Minister or the Board, as the case may be, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Frivolous
or vexatious
applications
or appeals

Withdrawing
application

21.—(1) An applicant may withdraw an application at any time before the time for filing written representations has ended and thereafter the application may only be withdrawn with the consent of the Minister and the Minister may impose terms on which his or her consent is given.

Withdrawing
appeal

(2) A landlord or tenant may withdraw an appeal at any time before the hearing of the appeal has commenced but, where the hearing has commenced, the appeal may only be withdrawn with the consent of the Board and the Board may impose terms on which its consent is given.

Parties may
examine
material

22. All parties to a proceeding under this Act are entitled to examine, and the Minister and the Board, as the case may be, shall make available for examination, all material filed with the Minister or the Board pertaining to the proceeding.

Terms and
conditions

23.—(1) The Minister or the Board may include in any order, terms and conditions the Minister or the Board, as the case may be, considers proper in all the circumstances.

Clerical
errors

(2) An order made by the Minister or by the Board that contains an error arising from an accidental slip or omission may be amended by the Minister or the Board, as the case may be, at any time.

Enforcement
of order for
the payment
of money

24.—(1) A certified copy of an order of the Minister or the Board, as the case may be, for the payment of money may be filed with the Supreme Court or with the District Court and, on being filed, the order has the same force and effect and all proceedings may be taken on it, as if it were a judgment of that Court.

Variation
of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

(a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

(b) if the order or decision varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1).

PART IV

RENT REVIEW HEARINGS BOARD

- 25.** A board to be known as the Rent Review Hearings Board is established. Board established
- 26.**—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint. Composition of Board
- (2) The members of the Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. Remuneration
- (3) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to members of the Board. Application of R.S.O. 1980, cc. 419, 490
- 27.** Members of the Board shall not be members of the public service, and shall hold office during pleasure. Term of office
- 28.** One member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board. Quorum
- 29.**—(1) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman and vice-chairman
- (2) The chairman shall from time to time assign members of the Board to its various sittings and may change such assignments at any time and shall be the chief executive officer of the Board. Chairman chief executive officer
- (3) Where the chairman is absent or unable to act, the vice-chairman may act as chairman. Absence, etc., of chairman
- 30.** Where a member of the Board resigns or retires, the member may, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties or responsibilities and exercise any powers that the member would have had if the member had not ceased to be a member of the Board. Completion of matters by members who resign or retire, etc.
- 31.** The members shall devote the whole of their time to the performance of their duties as members of the Board and shall not accept or hold any office or employment inconsistent with such duties. Members full time

Staff

R.S.O. 1980,
c. 418

32. Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional assistance

33. The Board may engage persons other than those appointed under section 32 to provide professional, technical or other assistance to the Board and may prescribe the duties and terms of the engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity for acts done in good faith

34. No action or other proceeding for compensation or damages shall be instituted against the Board, any member or any member of the Board staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Publication of decisions

35. The Board shall periodically prepare and publish a summary of significant decisions of the Board and the reasons therefor.

Board to adopt expeditious procedures

36. The Board shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter.

Decision to be on merits

37.—(1) Every decision of the Board shall be upon the real merits and justice of the case.

Board to ascertain substance of transactions and activities, etc.

(2) In determining the real merits and justice of the case, the Board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

(a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex.

Audit

38. The accounts of the Board shall be audited annually by the Provincial Auditor.

Annual report

39.—(1) The Board shall at the close of each year file with the Minister an annual report upon the affairs of the Board.

Further reports

(2) The Board shall make such further reports to the Minister and provide the Minister with such information as the Minister from time to time requires.

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session.

Tabling
of reports

40. All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature.

Moneys

41. The Board may charge and collect such fees as are prescribed for furnishing to any person, at his or her request, copies of forms, notices or documents filed with or issued by the Board.

Fees

PART V

RENT REGISTRY

42. In this Part,

Definition

“actual rent” means,

(a) in respect of residential complexes containing more than six rental units,

(i) the rent actually charged for each rental unit as of the 1st day of July, 1985, or

(ii) where a rental unit in a residential complex was not rented on the 1st day of July, 1985, the rent actually charged for the rental unit when that rental unit is first rented after that date, and

(b) in respect of residential complexes containing six or fewer rental units,

(i) the rent actually charged for each rental unit as of a date to be prescribed, or

(ii) where a rental unit in a residential complex was not rented on the date mentioned in subclause (i), the rent actually charged for the rental unit when the rental unit is first rented after that date.

43. This Part applies,

Application
of Part

(a) to all residential complexes containing more than six rental units; and

- (b) on a date to be prescribed, to all residential complexes containing six or fewer rental units.

Establishment
of rent
registry
by Minister

44.—(1) The Minister shall establish and maintain a rent registry for all residential complexes that are subject to this Part.

Furnishing of
information
from rent
registry

(2) The Minister shall, on the request of any person made in the prescribed manner, furnish that person with the information recorded in the rent registry referred to in subsection (1) in respect of any rental unit.

Fees

(3) The Minister may charge such fees as are prescribed for furnishing information under subsection (2).

Filing of
statement
of actual
rent by
landlord

45.—(1) Every landlord of a residential complex containing more than six rental units shall file a statement in the prescribed form with the Minister setting out for each rental unit in the residential complex the following information:

1. The name and address of the landlord and, where the landlord is not ordinarily resident in Ontario, the name and the address of the landlord's representative or agent in Ontario.
2. The municipal address and a concise description by reference to lot and registered plan number, if any, and the assessment roll number of the residential complex in which the rental units are situate.
3. The number, type (by number of bedrooms) and location (by suite number or other means of identification) of the rental units in the residential complex that are subject to rent regulation under Part VI, together with the actual rent charged for each such rental unit and the date on which the rent was last increased.
4. The number, type and location of the rental units, if any, in the residential complex that are exempt from rent regulation under Part VI, together with the reason why each such rental unit is exempt from Part VI.
5. Those services and facilities, accommodations and things included in the actual rent for which a separate charge is allocated and the amount of each.
6. Whether or not an application or decision under section 52 (whole building review) or section 126 of

the *Residential Tenancies Act* is pending or whether a notice of rent increase has been given and if so, the amount of the rent increase applied for.

R.S.O. 1980,
c. 452

7. The address of the place in Ontario where the landlord's books of account and rent rolls for the residential complex are ordinarily kept.
8. Such other information as is prescribed.

(2) The statement filed with the Minister under subsection (1) shall be accompanied by a statutory declaration made by the landlord or, if the landlord is a corporation, made by the president, secretary or other senior officer thereof, declaring that the information contained in the statement is, to the declarant's belief, true and complete.

Statutory
declaration

(3) Where a rental unit in a residential complex was rented on the day this Part comes into force, the landlord shall file the statement mentioned in subsection (1) on or before the 1st day of June, 1986.

Time for
filing

(4) Where a rental unit in a residential complex was not rented on the day this Part comes into force, the landlord shall file the statement mentioned in subsection (1) within six months of the day the rental unit first becomes rented and thereafter every six months until a statement has been filed in respect of all the rental units in the residential complex.

Idem

(5) Every landlord of a residential complex containing six or fewer rental units shall file a statement in the prescribed form with the Minister containing the information described in subsection (1) on or before a day to be prescribed and thereupon subsections (2) and (4) apply with necessary modifications.

Idem

46.—(1) The Minister shall record the information contained in every statement filed under section 45 in the rent registry established and maintained under section 44 and shall thereupon give to the landlord who filed the statement a notice confirming the recording of the information in the rent registry.

Recording of
information
by Minister
in rent
registry

(2) A landlord shall within fifteen days of receiving the notice under subsection (1) either,

Duty of
landlord
when notice
received

- (a) give a copy of the notice to the tenant of each rental unit in the residential complex; or

- (b) request the Minister to correct any information provided in the statement filed under section 45 or to correct any clerical errors in the recording of the information as may be disclosed by the notice.

Amendment
of rent
registry
by Minister

(3) Where at any time the Minister is satisfied that a correction should be made to the information recorded in the rent registry, the Minister shall amend the rent registry accordingly and give to the landlord a notice confirming the recording of the information as corrected in the rent registry.

Copy of
notice to
be given
by landlord
to tenant

(4) Not later than fifteen days from receiving a corrected notice from the Minister under subsection (3), the landlord shall give a copy of the corrected notice to the tenant of each rental unit in the residential complex.

Statutory
declaration
re: service

(5) Not later than five days from giving a copy of the notice required in subsection (1) or the corrected notice in subsection (4), the landlord shall file with the Minister a statutory declaration of the landlord or, if the landlord is a corporation, of the president, secretary or other senior officer thereof, that a copy of the notice or corrected notice was given to the tenant of each of the rental units in the residential complex.

Application
by tenant
disputing
amount of
rent in notice

47.—(1) Not later than one year from the day the declaration referred to in subsection 46 (5) was filed with the Minister, a tenant may by application in the prescribed form to the Minister dispute the amount of the actual rent for the tenant's rental unit as set out in the notice.

Grounds for
application

(2) An application under subsection (1) shall be made only on one or the other or both of the following grounds:

1. That the actual rent was lower than the amount set out in the notice.
2. That the actual rent was in excess of the lawful amount permitted to be charged under this Act, the *Residential Tenancies Act* and *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12

Justification
of actual
rent by
landlord

(3) Where an application is made by a tenant based on paragraph 2 of subsection (2), the landlord may justify the actual rent set out in the notice where the landlord establishes that, when to the amount of rent charged for the rental unit on the 29th day of July, 1975, or any time thereafter, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and the *Residential Tenancies*

Act, up to the actual rent date, the resulting amount is equal to or greater than the actual rent set out in the notice.

(4) Where an application is made to the Minister by a tenant under this section, the Minister shall declare the actual rent for the rental unit which shall be deemed to be the lawful rent as of the actual rent date and may make any order that the Minister is empowered to make under section 56.

Order of the
Minister

(5) If no application is brought under subsection (1) within the one-year period mentioned therein, the actual rent recorded in the rent registry in respect of a rental unit shall be deemed to be the lawful rent of that rental unit as of the actual rent date.

If no
application
brought

48. The Minister shall keep current the information recorded in the rent registry by incorporating, where applicable,

Register
to be kept
current

(a) an order made under this Act;

(b) an order made under the *Residential Tenancies Act*;

R.S.O. 1980,
c. 452

(c) a statutory increase permitted to be taken under this Act; and

(d) a statutory increase that was permitted under Part XI of the *Residential Tenancies Act*.

PART VI

RENT REGULATION

49. The rent charged for a rental unit shall not be increased unless a period of at least twelve months has elapsed since the date of the last rent increase.

Twelve-
month
period
between rent
increases

50.—(1) Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit,

Maximum
increase
without
application

(a) to take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987, by more than 4 per cent; and

(b) to take effect on or after the 1st day of January, 1987, and to take effect on and after the 1st day of January in each subsequent year, by more than such percentage as is calculated in accordance with a prescribed schedule,

of the last rent that was charged for the rental unit for an equivalent rental period.

Application

(2) A landlord may increase the rent charged for a rental unit by more than the amount permitted in subsection (1) without making an application under section 52 provided that the increased rent is not higher than the maximum rent as of the date the rent increase takes effect.

Application

R.S.O. 1980,
c. 452

51.—(1) This section applies only to rental units that, before the repeal of clauses 134 (1) (c), (d) and (e) of the *Residential Tenancies Act* by section 84 of this Act, were exempt from Part XI of that Act.

Notice
deemed
for
4 per cent

(2) A notice of rent increase to increase the rent charged for a rental unit by more than 4 per cent of the last rent that was charged for an equivalent rental period given before this section comes into force to take effect on or after the 1st day of August, 1985 shall be deemed to be for an increase of 4 per cent except, that where an order of the Minister or the Board on an application under section 52 permits an increase other than 4 per cent, the notice of rent increase shall be deemed to be for the increase permitted by the order.

Landlord to
repay excess
rent or bring
application
under s. 52

(3) A landlord who has increased the rent charged for a rental unit by more than 4 per cent effective on or after the 1st day of August, 1985 shall, on or before the sixtieth day after the coming into force of this section,

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of a 4 per cent increase; or
- (b) apply to the Minister under section 52 (whole building review) even though the time for making such an application set out in subsection 52 (1) has expired.

Maximum
rent
increase

(4) In an application under section 52 as provided for in clause (3) (b), the Minister shall, in making an order under section 53, set the maximum rent that may be charged for each rental unit that is under review that does not exceed the increased rent specified by the landlord in a notice of rent increase mentioned in subsection (2).

Application
in respect of
previously
exempt units

(5) Where,

- (a) before the day this section comes into force, the Residential Tenancy Commission has made an order setting the maximum rents that may be

charged for rental units in a residential complex pursuant to an application under section 126 of the *Residential Tenancies Act*; and

R.S.O. 1980,
c. 452

- (b) in respect of one or more rental units in the residential complex, the order did not set the maximum rents that may be charged for those rental units because the monthly rental was \$750 or more before the effective date of the first rent increase permitted by the order,

the landlord of the residential complex may apply to the Minister under section 52 only in respect of all the units described in clause (b), the rent for which was increased by more than 4 per cent on or after the 1st day of August, 1985 and before twelve months elapsed from the effective date of the first rent increase permitted by the order mentioned in clause (a), and the Minister has jurisdiction to consider the application and to set the maximum rents that may be charged notwithstanding that not all of the rental units in the residential complex are included in the application.

(6) In making an order setting the maximum rents that may be charged for the rental units included in an application made under subsection (5), the Minister shall apply the total rent increase percentage previously determined by the Residential Tenancy Commission and applied by it in setting the maximum rents in the order described in clause (5) (a).

Order of
Minister

(7) Where a landlord fails to comply with clause (3) (a) or (b), the tenant may,

Where
landlord
fails to
comply
with cl.
(3) (a)
or (b)

- (a) deduct the amount of the rent paid by the tenant that is in excess of a 4 per cent increase from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Minister under subsection 56 (2).

52.—(1) Where a landlord desires to increase the rent charged for a rental unit by more than the percentage referred to in subsection 50 (1), the landlord may apply to the Minister in the prescribed form at least ninety days before the effective date of the first intended rent increase for an order permitting the landlord to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

Application
by landlord

(2) When the landlord applies to the Minister under subsection (1), the landlord shall, as part of the same application,

Whole
building
review

apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

Filing of
cost revenue
statement

(3) The landlord shall file with the Minister a cost revenue statement in the prescribed form together with all documents that the landlord relies upon in support of the application and such other material as may be prescribed not later than seventy days before the effective date of the first rent increase applied for.

Extension of
filing date

(4) The Minister may extend the date of filing specified in subsection (3) for such period of time and on such terms and conditions as the Minister may in his or her discretion allow.

Inspection

(5) Any party to the application may inspect the cost revenue statement and the material filed in respect of the application and may in writing submit representations in respect of the application and the material filed therewith not later than fifty days before the effective date of the first rent increase applied for or such later date as the Minister may in his or her discretion allow.

Extension
of time

(6) Where the Minister extends the date for filing under subsection (4), the Minister shall notify each of the tenants affected by the application of the extended filing date and the tenant shall be permitted twenty days from the extended filing date to submit written representations as provided for in subsection (5).

Determi-
nation
by Minister
of total
rent increase

53.—(1) Where an application is made by a landlord to the Minister under section 52, the Minister shall determine the total rent increase for the residential complex that is justified by,

- (a) the prescribed allowances for increases in operating costs;
- (b) the findings of the Minister concerning financing costs, capital expenditures and extraordinary operating costs that the landlord has experienced or will experience in respect of the residential complex;
- (c) the findings of the Minister concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;

- (d) the findings of the Minister concerning a change in the services and facilities provided or in the standard of maintenance and repair in respect of the residential complex or any rental unit located therein;
- (e) in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the prescribed rate of return on the landlord's initial invested equity and capitalized losses as defined in the regulations;
- (f) the findings of the Minister concerning financing costs no longer borne by the landlord and which were previously allowed in determining rent increases under this Act or the *Residential Tenancies Act*;
- (g) the findings of the Minister concerning matters prescribed by the regulations.

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c. 452

(2) In making findings concerning financing costs under clause (1) (b), the Minister shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord.

Limitation on
consideration
of financing
costs

(3) When the total rent increase for the residential complex has been determined under subsection (1), if the resulting gross revenue does not exceed the costs found under clauses (1) (a) and (b) by at least 2 per cent, the Minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the gross revenue to not more than 2 per cent above the costs found.

Relief of
hardship

(4) Subsection (3) does not apply where the Minister allows a financial loss arising out of the circumstances set out in subsections (2) and (5).

Where
subs. (3)
does not
apply

(5) Where a landlord claims a financial loss arising out of an increase in the financing costs of the residential complex resulting from a purchase or purchases of the residential complex, the Minister, when determining the total rent increase for the residential complex, shall allow in the initial year (as the component of the total increase in rent determined by the Minister that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex and in subsequent years, where the financial loss is carried forward as a

Limit on rent
increase
attributable
to
increased
financing
costs
resulting
from
purchase of
residential
complex

claim, the amount allowed in respect thereof by the Minister in any such year shall not exceed 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Interpretation (6) For the purposes of subsections (2) and (5), "purchase" means the acquisition of a residential complex, after the 31st day of December, 1979, by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in any agreement to purchase a residential complex.

Allowance of interest (7) In making findings concerning capital expenditures under clause (1) (b), the Minister shall allow interest on the expenditure, when financed by borrowing, either at the actual rate paid or at the rate calculated in the manner prescribed or when financed out of the landlord's own funds, at the rate calculated in the manner prescribed.

Apportionment of total rent increase (8) In apportioning the total rent increase amongst the rental units in the residential complex, the Minister may take into account the following matters:

1. The rent schedule proposed by the landlord's application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
3. The matters prescribed by regulation.

Equalization of rents (9) In apportioning the total rent increase under subsection (8), the Minister shall set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complex over a period of five years.

Idem (10) Notwithstanding subsection (9), the Minister may apportion the rent increase to achieve immediate equalization of the rents charged for similar rental units where the amount of rent increase required for equalization does not exceed the prescribed amount.

Order re maximum rent chargeable for each unit (11) Where the Minister has determined and apportioned the total rent increase under this section,

- (a) the Minister shall order the maximum rent that may be charged for each rental unit in the residential

complex that is under review and the earliest date that each may take effect; and

- (b) the Minister may order that the landlord or tenant pay to the other any sum of money that is owed to the other by reason of the order of the Minister setting the maximum rent for a rental unit.

(12) Where a landlord has applied for a rent increase greater than the amount permitted by subsection 50 (1), the Minister may, if his or her findings so justify, allow a rent increase of less than the amount permitted by subsection 50 (1). Minister may order increase less than statutory increase

(13) In any application under this Part, the Minister may, if his or her findings so justify, order a decrease in the total rent that may be charged for a residential complex or a decrease in the rent that may be charged for any rental unit in the residential complex. Minister may order decrease in rent

54.—(1) With the authorization in writing of the tenants of not less than, Application by tenants for reduction of rents

- (a) 50 per cent in number of the rental units in a residential complex, containing twenty or fewer rental units; or
- (b) 25 per cent in number of the rental units in a residential complex containing twenty-one or more rental units,

an application in the prescribed form may be made to the Minister by the tenants requesting a reduction of rents in respect of the residential complex.

(2) An application may be brought under subsection (1) only for the purpose of reducing an increase in rents previously ordered by the Minister or ordered by the Board under this Act or by the Residential Tenancy Commission under the *Residential Tenancies Act* for the residential complex because of an increase in financing costs that are no longer borne by the landlord at the time the application is made. Purpose of application

(3) An application under this section may be made not less than 120 days before the anniversary of the effective date of the first rent increase ordered in an application under section 52 (whole building review) or section 126 of the *Residential Tenancies Act*. Time for bringing application

R.S.O. 1980,
c. 452

Contents of
application

(4) The application shall specify the specific financing cost or costs that it is alleged are no longer borne and that justifies a reduction in the total rent for the residential complex.

Notice to
landlord

(5) On receipt of the tenants' application, the Minister shall notify the landlord in writing of receipt of the application.

Landlord
may apply
under s. 52

(6) On receipt of notice of the tenants' application, the landlord may make an application under section 52 not less than ninety days before the anniversary of the effective date of the first rent increase previously ordered in respect of the residential complex.

Where
application
made for
whole
building
review

(7) Where the landlord makes an application under section 52 within the time specified in subsection (6), the requested reduction of rent application will be considered and determined together with the application for whole building review.

When
Minister
to consider
application

(8) Where the landlord does not make an application under section 52 within the time specified in subsection (6), the Minister shall consider the application made under subsection (1).

Determi-
nation
of rent
decrease
by Minister

(9) After considering the application, the material and information filed and the written representations submitted by any party to the application, the Minister shall determine the total rent decrease for the residential complex that the Minister finds justified by the financing costs that are no longer borne.

Apportion-
ment of de-
crease

(10) The Minister shall apportion the total rent decrease determined under subsection (9) amongst the rental units on an equal percentage basis.

Order of
Minister

(11) Where the Minister has apportioned the rent decrease under subsection (10), the Minister,

- (a) shall order the rent decrease for each rental unit in the residential complex and declare the maximum rent that may be charged for each rental unit; and
- (b) may order the landlord to pay to a tenant any sum of money that is owed to the tenant by reason of the order.

Effective
date of
order

(12) An order made under subsection (11) shall take effect as of the date of the tenants' application to the Minister under subsection (1).

Application
by tenant
disputing
intended
rent increase

55.—(1) A tenant who desires to dispute an intended rent increase for his or her rental unit that does not exceed the

amount that the landlord is permitted to charge under subsection 50 (1) may make an application to the Minister for an order requiring the landlord to reduce the amount of the rent increase.

(2) Subsection (1) does not apply to a rent increase that results in a rent not exceeding the maximum permitted by an order by the Minister or the Board for the applicable rental unit. Exception

(3) An application under this section shall be made not less than sixty days before the effective date of the intended rent increase. Time for application

(4) Where an application is made by a tenant under this section, in determining a rent increase for the rental unit, the Minister shall, except where there has been an application under section 52 (whole building review), consider only the following matters: Considerations where tenant applies

1. Variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex.
2. Rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.
3. A change shown to have occurred in the standard of maintenance and repair or in the services and facilities provided that affects the rental unit.

(5) Where the Minister has made a determination on the application, Order setting maximum rent chargeable for the unit

- (a) the Minister shall make an order setting the maximum rent that may be charged for the rental unit under review; and
- (b) the Minister may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Minister setting the maximum rent for the rental unit.

56.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part. Tenant not liable to pay illegal rent increase

(2) Where, on the application of a tenant, the Minister determines that the tenant has paid an amount of rent that is Remedy

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

in excess of that permitted by this Part or Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, the Minister shall order the landlord to whom the excess rent was paid to pay the excess to the tenant and shall declare the maximum rent that may be charged for the rental unit concerned.

Where excess
rent not to
be repaid

(3) Notwithstanding subsection (2), the Minister shall not make an order for the payment of excess rent charged for a rental unit prior to the 1st day of August, 1985, where the sum of the excess rent and the lawful rent for the rental unit does not exceed the rent that could have been charged for the rental unit in the period when the excess rent was paid if to the amount charged for the rental unit on the 29th day of July, 1975, or at any time thereafter, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and the *Residential Tenancies Act*.

1975 (2nd
Sess.), c.
12R.S.O.
1980, c. 452

Limitation

(4) No application shall be brought under subsection (2) after the expiration of six years from the time the excess rent is alleged to have been paid.

Where vacant
unit becomes
rented

57. Where a rental unit that was previously rented has not been rented for a period of twelve months or more then becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during that period and the landlord had given notice or notices of rent increase in the amount permitted by this Act.

Where rental
unit rented
for first time

58. Where a rental unit in a residential complex is rented for the first time, the rent charged by the landlord shall be deemed to be the maximum rent for that unit.

Filing of
documents
by tenant

59.—(1) Where a tenant makes an application under section 47, 54, 55 or 56, the tenant shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the tenant relies upon in support of the application and such other material as may be prescribed.

Extension of
time for
filing

(2) The Minister may extend the date of filing set out in subsection (1) for such period of time and upon such terms and conditions as the Minister may allow.

Inspection
and
submission of
representations

(3) Any party to an application referred to in subsection (1) may inspect the application and the documents and material filed in respect thereof and may in writing submit representations in respect of the application and the material filed there-

with not later than thirty days from the date of making the application, or such later date as the Minister may allow.

(4) Where the Minister under subsection (2) extends the date for filing, the Minister shall notify the landlord affected by the application of the extended filing date and the landlord shall be permitted fifteen days from the extended filing date to submit written representations as provided for in subsection (3).

Effect of
extension
of time

60. The Minister may at any time in his or her discretion refer any application made to the Minister to the Board and the Board in such case shall hear and determine the application as though it were an appeal under Part VII.

Referral of
application
to Board

61. The Minister in respect of any application under this Act may,

Minister may
investigate,
etc.

(a) conduct any enquiry or inspection the Minister considers necessary; and

(b) question any person, by telephone or otherwise.

62.—(1) In making any determination in an application under this Act, the Minister,

Matters to be
considered
by Minister

(a) shall consider any documents, material and written representations submitted in respect of the application; and

(b) may consider any relevant information obtained by the Minister in addition to the information referred to in clause (a), provided that the Minister first informs the parties adversely affected of the additional information and gives them an opportunity to explain or refute it.

(2) Where the Minister is required under subsection (1) to consider any written representations, the Minister shall ensure that the parties have been afforded an adequate opportunity to review the written representations and to submit written representations by way of reply thereto.

Opportunity
to review
and
submit
written
representations

63. Where an application is made to the Minister under this Act, the Minister is not required to hold a hearing in respect of the application and the *Statutory Powers Procedure Act* does not apply to the Minister in the exercise of a statutory power of decision under this Act.

Non-
application
of
R.S.O. 1980,
c. 484

Order of
Minister
final

64.—(1) An order made by the Minister under this Act, subject to Part VII, is final, binding and not subject to review and shall take effect and is enforceable according to its terms from the date it is made.

Copy of
order

(2) Where the Minister makes an order under this Act, the Minister shall forthwith give a copy of the order to each of the parties to the application.

PART VII

APPEALS

Appeal from
order of
Minister

65.—(1) A landlord or a tenant may, within thirty days of the giving of the order of the Minister, appeal any order of the Minister made under this Act by filing a notice or notices of appeal in the prescribed form with the Board, together with,

- (a) any documents that the party appealing relies upon in support of the appeal and which were not filed with the Minister on the application; and
- (b) the fee determined in accordance with the prescribed schedule.

Fees

(2) The Board may, where in its opinion the payment of the fee would constitute a hardship to the person appealing, waive the requirement or require the payment of such lesser fee as to the Board seems appropriate in the circumstances.

Record

(3) Where a notice of appeal is filed with the Board under subsection (1), a copy of the notice shall be given by the Board to the Minister who shall thereupon forward to the Board,

- (a) the original or a true copy of the application;
- (b) the original or a true copy of all documents and material filed in respect of the application; and
- (c) a certified copy of the order appealed from.

Where
appeal
not to be
proceeded
with

(4) The Board shall not proceed with an appeal by a tenant or tenants from an order made on an application under section 54 (cost no longer borne) unless the appeal is authorized in writing by not less than the same percentage of tenants as were required to authorize the application under that section.

(5) The parties to an appeal from an order made on an application under section 52 (whole building review) are the landlord and, Parties

(a) where an appeal is authorized in writing by a tenant from each of not less than 25 per cent of the total number of rental units in the residential complex, all the tenants of rental units in the residential complex; and

(b) where an appeal is not authorized in writing by at least 25 per cent of the total number of rental units in the residential complex, that tenant who has made, or those tenants who have authorized, the appeal.

(6) Where any person has filed a notice of appeal, the other parties to the appeal shall, within thirty days of the filing of the notice of appeal, file with the Board the documents and materials that the parties intend to rely upon at the hearing of the appeal. Filing of documents, etc., by respondent

(7) After receiving a notice of appeal under subsection (1), the Board shall give a notice to the parties stating the date, place and time when the appeal will be heard. Notice to parties

(8) Where several different appeals have been made to the Board, and the Board is of the opinion that it would be appropriate to determine the issues raised by the appeals together, the Board may hear and determine the issues in dispute at a common hearing. Issues may be heard together

(9) Where the Board is of the opinion that it would be appropriate to deal with some of the issues raised by an appeal at separate hearings, the Board may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues. Issues may be heard separately

66. The Board shall conduct a hearing under this Part as a hearing *de novo*. Hearing *de novo*

67.—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Board in the exercise of a statutory power of decision. Application of R.S.O. 1980, c. 484

(2) The giving to a party of a copy of a notice of appeal to the Board shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*. Deemed compliance
R.S.O. 1980, c. 484

Procedure
R.S.O. 1980,
c. 484

68. Subject to the provisions of the *Statutory Powers Procedure Act*, and except as otherwise provided for by this Act, the Board may determine its own procedure for the conduct of hearings.

Matters
Board
to consider

69.—(1) In addition to any material, evidence or information submitted to the Board on an appeal, in hearing any appeal, the Board may consider,

- (a) any matter the Minister was entitled to consider on the application;
- (b) any material, and documents submitted to the Minister on the application; and
- (c) such other matters as it deems necessary or advisable for the purpose of dealing with the appeal.

Board may
investigate,
etc.

(2) The Board, in respect of any appeal, may,

- (a) conduct any enquiry or inspection that it considers necessary; and
- (b) question any person by telephone or otherwise.

Additional
material

70. The Board may direct any party to the appeal to file additional material and the hearing shall not proceed until the other parties have had an opportunity to examine the additional material.

Board may
question
parties, etc.

71. At the hearing, the Board may question the parties who are in attendance at the hearing and any witnesses with a view to determining the truth concerning the matters in dispute.

Other
relevant
information

72. In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Order of
Board

73. Upon completion of a hearing, the Board shall by order,

- (a) affirm the order of the Minister;
- (b) vary the order of the Minister; or
- (c) substitute its own order for the order of the Minister,

and shall send copies of the order to the parties to the appeal.

74. Where, within one year of the date of an order of the Board the Board is of the opinion that there has been a serious error, the Board may, on its own motion, rehear any appeal and may affirm, rescind, amend or replace the order.

Power to
rehear

75. An order of a Board member shall be deemed to be an order of the Board.

Order of
member
deemed
order
of Board
Costs

76.—(1) The Board may at its discretion award costs in respect of an appeal and where the Board does so, it may fix the costs at a sum certain or direct that they be assessed.

(2) The Board may order by whom and to whom the costs are to be paid, and by whom the costs are to be assessed.

Assessment

77.—(1) Any party to an appeal under section 65 may, on a question of law, appeal an order of the Board to the Divisional Court.

Appeal to
Divisional
Court

(2) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal under this section.

Board
entitled to
be heard on
appeal

(3) Where an appeal is brought under subsection (1), the Divisional Court shall hear and determine the appeal and may,

Power of
Divisional
Court on
appeal

(a) affirm, rescind, amend or replace the decision or order; or

(b) remit the matter to the Board with the opinion of the Divisional Court,

and may make,

(c) any other order in relation to the matter that it considers proper; and

(d) any order, with respect to costs, that it considers proper.

78. An appeal from an order of the Minister or the Board does not stay the order pending the hearing of the appeal.

Orders not
stayed
pending
appeal

PART VIII

MISCELLANEOUS

Regulations

79. The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 5, the form of the notice of a rent increase;
- (b) prescribing forms of applications to the Minister and material to be furnished therewith;
- (c) prescribing the form of a notice of appeal to the Board;
- (d) prescribing, for the purposes of section 41, fees for the furnishing of copies of forms, notices or documents;
- (e) prescribing, for the purposes of clause 42 (b), the actual rent date;
- (f) prescribing, for the purposes of clause 43 (b), the date of the application of Part V;
- (g) prescribing, for the purposes of subsection 44 (2), the form of a request for information from the rent registry;
- (h) prescribing, for the purposes of subsection 44 (3), fees for the furnishing of information from the rent registry;
- (i) prescribing, for the purposes of subsection 45 (1), the form of the statement to be filed and the information to be contained therein;
- (j) prescribing, for the purposes of subsection 45 (5) the day on or before which a statement shall be filed;
- (k) prescribing a schedule for the calculation of the percentage referred to in clause 50 (1) (b);
- (l) prescribing procedural rules and administrative policies to be observed in the interpretation and application of this Act;

- (m) prescribing, for the purposes of clause 53 (1) (a), the allowances for increases in operating costs;
- (n) prescribing, for the purposes of clause 53 (1) (e), the rate of return on invested equity and capitalized losses and defining the meaning of the expressions;
- (o) prescribing, for the purposes of clause 53 (1) (g), matters in respect of which the Minister may make findings;
- (p) prescribing, for the purposes of subsection 53 (7), the manner of calculating interest rates;
- (q) prescribing, for the purposes of paragraph 3 of subsection 53 (8), matters to be taken into account by the Minister;
- (r) prescribing, for the purposes of subsection 53 (10), the maximum amount of rent increase for equalization;
- (s) prescribing, for the purposes of subsection 65 (1), a schedule of fees to be paid on an appeal;
- (t) prescribing the form of a cost revenue statement;
- (u) prescribing anything that by this Act may be prescribed.

80. Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Minister or the Board, as the case may be, is of the opinion that it would result in unfairness to any person.

Substantial compliance with forms, etc., sufficient

81. Any person may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act.

Right to organize or participate in association

82.—(1) Any person who,

Offences

- (a) knowingly fails to obey an order of the Minister or the Board;
- (b) knowingly furnishes false or misleading information in any application, document, written representation or statement to the Minister under this Act or in any proceedings before the Board;

- (c) increases the rent charged for a rental unit where less than twelve months has elapsed since the date of the last rent increase;
- (d) increases the rent charged for a rental unit by more than the amount referred to in subsection 50 (1) unless authorized by the Minister or the Board to do so;
- (e) charges a higher rent for a rental unit than that permitted under an order of the Minister or the Board; or
- (f) fails to file a statement with the Minister in respect of the rent registry,

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Where
corporation
convicted

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

Limitation

(3) Proceedings shall not be commenced, in respect of an offence under subsection (1), after one year after the date on which the offence was, or is alleged to have been, committed.

Moneys

83. The moneys required for administration of this Act shall, until the 31st day of March, 1986, be paid out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

84. Clauses 134 (1) (c), (d) and (e) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

85. The following are repealed:

1. *Residential Complexes Financing Costs Restraint Act*, 1982, being chapter 59.
2. *Residential Complexes Financing Costs Restraint Amendment Act*, 1983, being chapter 69.
3. *Residential Complexes Financing Costs Restraint Amendment Act*, 1984, being chapter 65.

4. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 134 and subsection 135 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980.

86.—(1) Despite the repeal of the provisions of the *Residential Tenancies Act* mentioned in paragraph 4 of section 85, those provisions shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters, and the matters referred to in clause (2) (a):

Certain provisions of R.S.O. 1980, c. 452 deemed continued in force for certain purposes

1. An application made under section 126 of the *Residential Tenancies Act* before the 1st day of August, 1985, where the effective date of the first rent increase applied for is before the 1st day of August, 1985.
2. An application made under section 127 of the *Residential Tenancies Act* before the 1st day of August, 1985, where the effective date of the disputed intended rent increase is before the 1st day of August, 1985.
3. An application made under subsection 129 (2) of the *Residential Tenancies Act* before the 1st day of August, 1985.

(2) An application made under section 126 or 127 or subsection 129 (2) of the *Residential Tenancies Act* made on or after the 1st day of August, 1985, and before the day this section comes into force may, at the written election of the applicant, either,

Election to proceed under R.S.O. 1980, c. 452 or this Act

- (a) be continued and finally disposed of under the provisions of the *Residential Tenancies Act*; or
- (b) be continued and finally disposed of as an application made under the corresponding provisions of this Act.

(3) For the purposes only of subsection (1) and clause (2) (a), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until a day to be named by proclamation of the Lieutenant Governor.

Residential Tenancy Commission continued for certain purposes

Commence-
ment

87.—(1) This Act, except subsection 50 (1) and section 84, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Subsection 50 (1) and section 84 shall be deemed to have come into force on the 1st day of August, 1985.

Short title

88. The short title of this Act is the *Residential Rent Regulation Act, 1986*.

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Bill 79

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Section 112 of the Act prohibits bonuses in aid of any manufacturing business or of any industrial or commercial enterprise. The proposed re-enactment of section 112 continues the prohibition and sets out four specific types of financial assistance that are prohibited.

The proposed section 112a will permit municipalities to establish programs to counsel small businesses in the municipality and to encourage new small businesses in the municipality.

Bill 79

1986

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 112 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

112. Notwithstanding any general or special Act, a council shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses in aid thereof, and, without restricting the generality of the foregoing, the council shall not grant assistance by,

Assistance
prohibited

- (a) giving or lending any property of the municipality, including money;
- (b) guaranteeing borrowing;
- (c) leasing or selling any property of the municipality at below fair market value;
- (d) giving a total or partial exemption from any levy, charge or fee.

112a.—(1) Notwithstanding section 112, the council of a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality.

Small
business
counselling

(2) The council of a municipality,

Small
business
programs

- (a) with the approval of the Lieutenant Governor in Council, may establish and maintain one or more programs to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality; and

- (b) may participate in programs established and administered by the Ministry of Industry, Trade and Technology to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality.

Idem

(3) The council of a municipality may enter agreements with the Minister of Industry, Trade and Technology with respect to the financing and operation of programs referred to in subsection (2).

Acquisition
and leasing
of
land, etc.

(4) For the purposes of a program referred to in subsection (2), the council of the municipality, subject to the regulations and the terms and conditions of any agreement under subsection (3),

- (a) may acquire land and erect and improve buildings and structures for the purpose of providing leased premises for eligible small businesses or that will be leased to a corporation described in clause (d);
- (b) may make grants to corporations described in clause (d) notwithstanding section 112;
- (c) may enter into leases of real property with small businesses included in a program referred to in subsection (2);
- (d) may enter leases of real property and other agreements related to the establishment and operation of the program with a corporation without share capital established for the purposes of encouraging the establishment and initial growth of small businesses, or any class thereof, in the municipality;
- (e) may sell, lease or otherwise dispose of any of the personal property of the municipality to any eligible small business or to a corporation described in clause (d) or may provide for the use thereof by any such small business or corporation;
- (f) may provide for the use of the services of any of the employees of the municipality by any eligible small business or by a corporation described in clause (d); and
- (g) may establish a local board to administer a program established under clause (2) (a) or to administer the municipality's participation in a program referred to in clause (2) (b).

(5) Where a corporation described in clause (4) (d) leases any building or structure from a municipality, it shall use the building or structure for the purpose of providing leased premises to small businesses included in a program referred to in subsection (2). Idem

(6) Notwithstanding section 112, a lease, disposition of property or use of property or services of employees of the municipality by an eligible small business or a corporation described in clause (4) (d) may be made or provided for at less than fair market value but this subsection ceases to apply to an eligible small business at the end of thirty-six months following the day it first occupies premises leased to it under this section. Availability of assistance

(7) The following provisions apply to a local board established under clause (4) (g): Local board

1. The local board is a body corporate and shall consist of such number of members as the council of the municipality may determine.
2. A person is disqualified from being a member of the local board unless the person is qualified to be elected as a member of the council of the municipality.
3. Members shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.
4. Upon the coming into force of the by-law establishing the local board, all the powers, rights, authorities and privileges conferred and the duties imposed on the council of the municipality by subsections (1) and (2), clauses (4) (a) to (f) and the regulations and any agreement under subsection (3) shall be exercised by the local board but subject to such limitations as the by-law may provide.
5. The local board shall submit to the council of the municipality its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the local board and, when money is so provided by the council, the treasurer of the municipi-

pality shall, upon the certificate of the local board, pay out such money.

6. On or before the 1st day of March in each year, the local board shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.
7. The municipal auditor shall be the auditor of the local board and all books, documents, transactions, minutes and accounts of the local board shall, at all times, be open to the auditor's inspection.
8. The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the local board.
9. Upon the repeal of the by-law establishing the local board, the local board ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

- (a) prescribing maximum amounts that may be expended by municipalities or any particular municipality under a program referred to in subsection (2);
- (b) defining "small business" for the purposes of this section.

Definitions

(9) In this section,

"eligible small business" means a small business included in a program referred to in subsection (2) that is in occupation of premises leased to it under this section;

"municipality" includes a metropolitan, regional and district municipality and the County of Oxford.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipal Amendment Act, 1986*. Short title

Bill 79

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	June 26th, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

Section 112 of the Act prohibits bonuses in aid of any manufacturing business or of any industrial or commercial enterprise. The proposed re-enactment of section 112 continues the prohibition and sets out four specific types of financial assistance that are prohibited.

The proposed section 112a will permit municipalities to establish programs to counsel small businesses in the municipality and to encourage new small businesses in the municipality.

Bill 79

1986

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 112 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

112.—(1) Notwithstanding any general or special Act, a council shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses in aid thereof, and, without restricting the generality of the foregoing, the council shall not grant assistance by,

Assistance
prohibited

- (a) giving or lending any property of the municipality, including money;
- (b) guaranteeing borrowing;
- (c) leasing or selling any property of the municipality at below fair market value;
- (d) giving a total or partial exemption from any levy, charge or fee.

(2) Subsection (1) does not apply to a council that is exercising any of its power or authority under subsection 28 (6) or (7) of the *Planning Act*, 1983 where the power or authority is exercised with the approval of the Minister.

Exception
1983, c. 1

112a.—(1) Notwithstanding section 112, the council of a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality.

Small
business
counselling

- (2) The council of a municipality,

Small
business
programs

- (a) with the approval of the Lieutenant Governor in Council, may establish and maintain one or more programs to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality; and
- (b) may participate in programs established and administered by the Ministry of Industry, Trade and Technology to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality.

Idem

(3) The council of a municipality may enter agreements with the Minister of Industry, Trade and Technology with respect to the financing and operation of programs referred to in subsection (2).

Acquisition
and leasing
of
land, etc.

(4) For the purposes of a program referred to in subsection (2), the council of the municipality, subject to the regulations and the terms and conditions of any agreement under subsection (3),

- (a) may acquire land and erect and improve buildings and structures for the purpose of providing leased premises for eligible small businesses or that will be leased to a corporation described in clause (d);
- (b) may make grants to corporations described in clause (d) notwithstanding section 112;
- (c) may enter into leases of real property with small businesses included in a program referred to in subsection (2);
- (d) may enter into leases of real property and other agreements related to the establishment and operation of the program with a corporation without share capital established for the purposes of encouraging the establishment and initial growth of small businesses, or any class thereof, in the municipality;
- (e) may sell, lease or otherwise dispose of any of the personal property of the municipality to any eligible small business or to a corporation described in clause (d) or may provide for the use thereof by any such small business or corporation;
- (f) may provide for the use of the services of any of the employees of the municipality by any eligible small business or by a corporation described in clause (d);

(g) may establish a local board to administer a program established under clause (2) (a) or to administer the municipality's participation in a program referred to in clause (2) (b);

(h) may appoint one or more of the directors of a corporation described in clause (d); and

(i) may apply, under the *Corporations Act*, for letters patent incorporating a corporation described in clause (d) having such objects and powers as may be approved by the Minister. R.S.O. 1980.
c. 95

(5) Where a corporation described in clause (4) (d) leases any building or structure from a municipality, it shall use the building or structure for the purpose of providing leased premises to small businesses included in a program referred to in subsection (2). Idem

(6) Notwithstanding section 112,

Availability
of assistance

(a) a lease of real property under clause (4) (c) or (d) or subsection (5);

(b) a sale, lease or other disposition of personal property under clause (4) (e); or

(c) the use of personal property or the services of employees of a municipality pursuant to clauses (4) (e) and (f),

may be made or provided for at less than fair market value but this subsection ceases to apply to an eligible small business at the end of thirty-six months following the day it first occupies premises leased to it under this section.

(7) The following provisions apply to a local board established under clause (4) (g): Local board

1. The local board is a body corporate and shall consist of such number of members as the council of the municipality may determine.
2. A person is disqualified from being a member of the local board unless the person is qualified to be elected as a member of the council of the municipality.
3. Members shall hold office until the expiration of the term of the council that appointed them and until

their successors are appointed and are eligible for reappointment.

4. Upon the coming into force of the by-law establishing the local board, all the powers, rights, authorities and privileges conferred and the duties imposed on the council of the municipality by subsections (1) and (2), clauses (4) (a) to (f) and the regulations and any agreement under subsection (3) shall be exercised by the local board but subject to such limitations as the by-law may provide.
5. The local board shall submit to the council of the municipality its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the local board and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the local board, pay out such money.
6. On or before the 1st day of March in each year, the local board shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.
7. The municipal auditor shall be the auditor of the local board and all books, documents, transactions, minutes and accounts of the local board shall, at all times, be open to the auditor's inspection.
8. The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the local board.
9. Upon the repeal of the by-law establishing the local board, the local board ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

(a) prescribing maximum amounts that may be expended by municipalities or any particular municipality under a program referred to in subsection (2);

(b) defining "small business" for the purposes of this section.

(9) In this section,

Definitions

"eligible small business" means a small business included in a program referred to in subsection (2) that is in occupation of premises leased to it under this section;

"municipality" includes a metropolitan, regional and district municipality and the County of Oxford.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Municipal Amendment Act, 1986*.

Short title

Bill 79

*(Chapter 24
Statutes of Ontario, 1986)*

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	June 26th, 1986
<i>3rd Reading</i>	July 3rd, 1986
<i>Royal Assent</i>	July 7th, 1986

Bill 79

1986

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 112 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

112.—(1) Notwithstanding any general or special Act, a council shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses in aid thereof, and, without restricting the generality of the foregoing, the council shall not grant assistance by, Assistance prohibited

- (a) giving or lending any property of the municipality, including money;
- (b) guaranteeing borrowing;
- (c) leasing or selling any property of the municipality at below fair market value;
- (d) giving a total or partial exemption from any levy, charge or fee.

(2) Subsection (1) does not apply to a council that is exercising any of its power or authority under subsection 28 (6) or (7) of the *Planning Act*, 1983 where the power or authority is exercised with the approval of the Minister. Exception
1983, c. 1

112a.—(1) Notwithstanding section 112, the council of a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality. Small business counselling

- (2) The council of a municipality,

Small
business
programs

- (a) with the approval of the Lieutenant Governor in Council, may establish and maintain one or more programs to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality; and
- (b) may participate in programs established and administered by the Ministry of Industry, Trade and Technology to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality.

Idem

(3) The council of a municipality may enter agreements with the Minister of Industry, Trade and Technology with respect to the financing and operation of programs referred to in subsection (2).

Acquisition
and leasing
of
land, etc.

(4) For the purposes of a program referred to in subsection (2), the council of the municipality, subject to the regulations and the terms and conditions of any agreement under subsection (3),

- (a) may acquire land and erect and improve buildings and structures for the purpose of providing leased premises for eligible small businesses or that will be leased to a corporation described in clause (d);
- (b) may make grants to corporations described in clause (d) notwithstanding section 112;
- (c) may enter into leases of real property with small businesses included in a program referred to in subsection (2);
- (d) may enter into leases of real property and other agreements related to the establishment and operation of the program with a corporation without share capital established for the purposes of encouraging the establishment and initial growth of small businesses, or any class thereof, in the municipality;
- (e) may sell, lease or otherwise dispose of any of the personal property of the municipality to any eligible small business or to a corporation described in clause (d) or may provide for the use thereof by any such small business or corporation;
- (f) may provide for the use of the services of any of the employees of the municipality by any eligible small business or by a corporation described in clause (d);

- (g) may establish a local board to administer a program established under clause (2) (a) or to administer the municipality's participation in a program referred to in clause (2) (b);
- (h) may appoint one or more of the directors of a corporation described in clause (d); and
- (i) may apply, under the *Corporations Act*, for letters patent incorporating a corporation described in clause (d) having such objects and powers as may be approved by the Minister.

R.S.O. 1980,
c. 95

(5) Where a corporation described in clause (4) (d) leases any building or structure from a municipality, it shall use the building or structure for the purpose of providing leased premises to small businesses included in a program referred to in subsection (2).

Idem

(6) Notwithstanding section 112,

Availability
of assistance

- (a) a lease of real property under clause (4) (c) or (d) or subsection (5);
- (b) a sale, lease or other disposition of personal property under clause (4) (e); or
- (c) the use of personal property or the services of employees of a municipality pursuant to clauses (4) (e) and (f),

may be made or provided for at less than fair market value but this subsection ceases to apply to an eligible small business at the end of thirty-six months following the day it first occupies premises leased to it under this section.

(7) The following provisions apply to a local board established under clause (4) (g):

Local board

1. The local board is a body corporate and shall consist of such number of members as the council of the municipality may determine.
2. A person is disqualified from being a member of the local board unless the person is qualified to be elected as a member of the council of the municipality.
3. Members shall hold office until the expiration of the term of the council that appointed them and until

their successors are appointed and are eligible for reappointment.

4. Upon the coming into force of the by-law establishing the local board, all the powers, rights, authorities and privileges conferred and the duties imposed on the council of the municipality by subsections (1) and (2), clauses (4) (a) to (f) and the regulations and any agreement under subsection (3) shall be exercised by the local board but subject to such limitations as the by-law may provide.
5. The local board shall submit to the council of the municipality its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the local board and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the local board, pay out such money.
6. On or before the 1st day of March in each year, the local board shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.
7. The municipal auditor shall be the auditor of the local board and all books, documents, transactions, minutes and accounts of the local board shall, at all times, be open to the auditor's inspection.
8. The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the local board.
9. Upon the repeal of the by-law establishing the local board, the local board ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality.

- (a) prescribing maximum amounts that may be expended by municipalities or any particular municipality under a program referred to in subsection (2);
- (b) defining "small business" for the purposes of this section.

(9) In this section,

Definitions

"eligible small business" means a small business included in a program referred to in subsection (2) that is in occupation of premises leased to it under this section;

"municipality" includes a metropolitan, regional and district municipality and the County of Oxford.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Municipal Amendment Act, 1986*.

Short title

Bill 80

An Act to amend the Education Act

Mr. Grande

1st Reading June 16th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for heritage language instruction in Ontario. The Bill sets forth a procedure for the establishment of heritage language programs in order that a heritage language may be taught as a subject of instruction or as a language of instruction. When a school board decides to institute a heritage language program, the Bill requires that a local heritage language advisory committee be established to provide continuing advice to the board concerning the nature and content of the heritage language program. In the case of a dispute between the board and the advisory committee, the Bill provides that the matter in dispute may be referred to the Minister for determination.

Bill 80

1986

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 235 (1) (f) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) in instruction and in all communications with pupils in regard to discipline and the management of the school, to use English or another language that will be understood by the pupil, except in respect of a language that is being taught as one of the subjects in the course of study.

2. The said Act is amended by adding thereto the following Part:

PART XI-A

HERITAGE LANGUAGE INSTRUCTION

277c. In this Part,

Definitions

“board” means a board of education, public school board, secondary school board or separate school board;

“board area” means the area in which a board has jurisdiction;

“heritage language” means a language other than English or French;

“student” means any person who has a right to attend a school in a board area in which the person is qualified to be a resident pupil.

277d. The purpose of this Part is,

Purpose

- (a) to provide students with the opportunity to study a heritage language as a subject of instruction in order to preserve or establish links with a heritage language community; and
- (b) to provide students with instruction in a heritage language as a means of transition to learning and working in the English or French language.

Heritage
language
classes

277e.—(1) A board may establish and maintain classes for the purpose of providing a heritage language as a subject of instruction or as a language of instruction for the purpose of transition to English or French.

Heritage
language
as a
subject of
instruction

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of students resident in the board area and directly related to a heritage language community has elected to be taught the heritage language as a subject of instruction, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes of twenty or more and, where the board determines that such students can be so assembled, it shall provide the language as a subject of instruction in such classes or groups.

When classes
to be held

(3) The board shall provide the heritage language as a curriculum subject for academic credit during the regular school day where the board determines that one or more classes or groups of twenty or more students can be assembled for the purpose and the board may establish such other classes at such times and locations as the board considers necessary to meet the needs of the heritage language community.

Admission
to classes

(4) Upon determining that a heritage language shall be taught as a subject of instruction, a board may permit students who have no direct relationship to the heritage language community to receive instruction in the language.

Transition
classes

277f.—(1) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of students resident in the board area whose mother tongue is a heritage language has elected to be taught in the heritage language as a language of instruction for the purpose of transition to English or French, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such students can be so assembled, it shall provide the

language as a language of instruction in such classes or groups.

(2) English or French shall be a subject of instruction in all grades in which a heritage language is a language of instruction.

Instruction
in English
or French

277g.—(1) Where a board establishes, extends or decides to establish or extend a class, group or program in which a heritage language is a subject of instruction or a language of instruction, the board shall, within two months of the establishment, extension or decision to establish or extend by resolution, establish an advisory committee and provide for the holding of election of members thereof.

Advisory
committee

(2) No person is eligible to be a member of an advisory committee unless the heritage language in respect of which the committee is established is the mother tongue of that person.

Membership
on advisory
committee

(3) The advisory committee is responsible for developing proposals designed to meet the educational and cultural needs of students and community members who speak or wish to study the heritage language and for such purpose may make recommendations in respect of,

Recommen-
dations

- (a) the establishment, operation and management of heritage language instructional programs;
- (b) the use of the heritage language and of the English and French languages in heritage language instructional programs;
- (c) the recruitment and appointment of the required teaching, supervisory and administrative personnel;
- (d) the establishment of the course of study and the use of textbooks and other instructional material;
- (e) the establishment of attendance areas for heritage language instructional programs;
- (f) the provision of transportation for pupils;
- (g) the entering into agreements with other boards in respect of the provision of instruction in the heritage language and supervising and consultative services;
- (h) the development and establishment of adult education programs;

- (i) the use of any facility and means necessary to meet the educational and cultural needs of the heritage language community;
- (j) the provision of summer school programs; and
- (k) any other matter pertaining to heritage language education.

Committee
report
to board

(4) The committee shall report at each regular meeting of the board.

Board
to seek
advice of
committee

(5) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of heritage language classes, groups or programs before any final decision regarding such matters is taken by the board.

Consider-
ation of
recommen-
dations
by board

(6) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral to
Minister

277h.—(1) Upon receipt of a refusal and the reasons therefor under subsection (3), the committee may, by motion, refer the matter to the Minister, in which case it shall send to the Minister and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal.

Deferral
of action
by board

(2) When a matter is referred to the Minister, the board concerned shall defer action thereon until the matter has been resolved.

Written
reasons

(3) The Minister shall provide written reasons to the committee and the board in respect of a decision made on a matter referred to the Minister by the committee.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Education Amendment Act, 1986*.

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The third is that the system is not self-organizing. The fourth is that the system is not self-organizing.

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The twenty-fifth is that the system is not self-organizing. The twenty-sixth is that the system is not self-organizing.

Bill 81

An Act to amend the Employment Standards Act

Mr. Martel

1st Reading June 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prohibit an employer from requiring an employee to work more than five consecutive days without a day of rest.

Bill 81

1986

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a. Notwithstanding anything in this Part, an employer shall not require an employee to perform work on more than five consecutive days without a day of rest.

Maximum
consecutive
days of work

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Employment Standards Amendment Act, 1986*.

Short title

1. The first part of the paper is devoted to a general discussion of the problem.

2. The second part is devoted to a detailed study of the case of a single particle. In this case the problem is reduced to a system of ordinary differential equations. The solution of this system is obtained in explicit form. The results are then used to study the case of a system of particles.

3. The third part is devoted to a study of the case of a system of particles. In this case the problem is reduced to a system of partial differential equations. The solution of this system is obtained in explicit form.

4. The fourth part is devoted to a study of the case of a system of particles. In this case the problem is reduced to a system of partial differential equations. The solution of this system is obtained in explicit form.

5. The fifth part is devoted to a study of the case of a system of particles. In this case the problem is reduced to a system of partial differential equations. The solution of this system is obtained in explicit form.

Bill 82

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill. The Bill repeals a provision of the Act dealing with professional strikebreakers and strike-related misconduct.

Bill 82

1986

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

67a.—(1) In this section,

Definitions

“employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;

“legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless,

Unlawful
employment

(a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or

(b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless,

Unlawful
entry

(a) the person ordinarily exercises managerial and supervisory functions;

- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection (3) enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection (3) or who, upon gaining entry, performs work contrary to subsection (2), commits a trespass and is liable to proceedings under the *Trespass to Property Act*.

R.S.O. 1980,
c. 511

2. Section 71a of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 42, section 1, is repealed.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1986*.

Bill 83

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

Bill 83

1986

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-B

ELECTED OFFICIAL LEAVE

39c. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official. Elected official leave

39f.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his or her duties as an elected official. When leave to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his or her duties as an elected official. Duration of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave. Notice

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior Idem

to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his or her duties as an elected official.

Preservation
of seniority

39g.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his or her position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his or her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and, in the absence of such a system or practice, shall reinstate the employee in accordance with subsection (1).

Employment
standards
officer
may make
order

39h. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he or she shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Employment Standards Amendment Act, 1986*.

Bill 84

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 11 (2), as amended, would read as follows:

(2) Subclause (1) (a) (iii) does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.

SECTION 2. Section 17, as amended, would read as follows:

17. Except as otherwise provided in this Part, and subject to any schedule in force under the Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.

SECTION 3. Section 18, as amended, would read as follows:

18. An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.

SECTION 4. Subsection 20 (3), as amended, would read as follows:

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.

SECTION 5. Subsection 25 (1), as amended, would read as follows:

(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.

Bill 84**1986****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 11 (2) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by striking out "forty-four" in the fifth line and inserting in lieu thereof "forty".

2. Section 17 of the said Act is amended by striking out "forty-eight" in the fourth line and inserting in lieu thereof "forty".

3. Section 18 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty".

4. Subsection 20 (3) of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty".

5. Subsection 25 (1) of the said Act is amended by striking out "forty-four" in the third line and in the fourth line and inserting in lieu thereof in each instance "forty".

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment

7. The short title of this Act is the *Employment Standards Amendment Act, 1986*. Short title

Bill 85

An Act to provide Political Rights for Public Servants

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, Crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workers' Compensation Board and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies and other senior policy-making officials.

The deleted sections of the *Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of four to five weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of the *Crown Employees Collective Bargaining Act* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity and provides for a wider range of penalties.

Bill 85

1986

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“agency” means any board, agency or commission of the Crown in right of Ontario;

“public servant” means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;

“Tribunal” means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of the *Crown Employees Collective Bargaining Act*.

R S O 1980,
c 108

2.—(1) Every public servant shall be entitled to exercise the following political rights,

Political
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;
- (e) the right to be a member of a political party and to hold office in such party; and

- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection (1) are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his or her position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he or she is directly engaged in employment with the Crown;
- (d) the employee respects the oath of office and secrecy, as provided under section 10 of the *Public Service Act*.

R.S.O. 1980,
c. 418

Partisan
work by
public
servants

3. No public servant shall be required by his or her employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer or other disciplinary action.

Leave of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his or her Minister or the chief officer of his or her agency, and,

- (a) may seek leave of absence without pay at any time the public servant is duly nominated by his or her party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he or she is nominated by his or her party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, the public servant shall forthwith resign his or her position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of the resignation; and

(b) applies for reappointment to his or her former position or to another position in the service of the Crown for which the public servant is qualified, within three months of ceasing to be an elected political representative,

he or she shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned a position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his or her service for any purpose, and the service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his or her employer. Disciplinary action

9.—(1) In this section, "employee organization" means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of subsection (2), a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

- (c) levy a fine; or
- (d) take such other disciplinary action as it considers appropriate.

10. Sections 12, 13, 14, 15 and 16 of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, are repealed.

11. Clause 1 (1) (g) of the *Crown Employees Collective Bargaining Act*, being chapter 108 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is the *Public Servants' Political Rights Act, 1986*.

Bill 86

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Cooke
(Windsor-Riverside)

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Section 5 of the Act lists the health programs and services to be provided by boards of health.

Subparagraph ii of paragraph 4 of section 5 now reads:

ii. establishment of family planning services.

Paragraph 7 now reads:

- 7. Public health education, including education in the prevention and control of life-style diseases.*

Bill 86

1986

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subparagraph ii of paragraph 4 of section 5 of the *Health Protection and Promotion Act, 1983*, being chapter 10, is repealed and the following substituted therefor:

- ii. establishment of family planning services, including services especially addressed to adolescents.

(2) Paragraph 7 of the said section 5 is repealed and the following substituted therefor:

- 7. Public health education, including,
 - i. education in the prevention and control of life-style diseases,
 - ii. education in the prevention of adolescent pregnancy.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1986*. Short title

Bill 87

An Act to revise the Loan and Trust Corporations Act

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill revises the existing law related to loan and trust corporations. Among its principal features are the following:

1. New procedures are established for the incorporation of provincial loan and trust corporations.
2. Provincial and extra-provincial corporations will be required to adhere to essentially the same rules. Equality of treatment is obtained through the registration system.
3. All directors will be required to meet a new standard and duty of care.
4. Corporations must have at least five directors.
5. At least one-third of the board of directors must be outside directors.
6. New conflict of interest rules are introduced for directors and other restricted parties.
7. Limitations on cross-directorships are introduced.
8. The board of directors will be required to establish an audit committee and an investment committee.
9. New duties are imposed on the auditors of a corporation. Among other duties, an auditor will be required to report matters of which he or she becomes aware in the course of his or her duties that may adversely affect the corporation. The auditor will also report on conflicts of interest. Similar duties are imposed on other outside advisors such as lawyers and appraisers. The auditor will also be required to attend meetings of the audit committee.
10. The investment committee of a corporation will be required to develop prudent investment standards for the corporation and the corporation will be required to observe those standards.
11. Minimum capital requirements are increased for all corporations. The new requirements are to be phased in for existing corporations over a five year period.
12. The borrowing multiple of a corporation (ie. its power to accept deposits) will be set at between ten and twenty-five times its assets and will be subject to approval by the Superintendent. The borrowing multiple will be reviewed by the Superintendent on an annual basis.
13. Investment powers of corporations will be expanded, subject to regulatory approval and quantum limits, to permit greater activity in the fields of commercial lending, commercial leasing and consumer lending.
14. Restrictions are placed on investments by or through subsidiaries of corporations.
15. The investment powers of loan corporations will be the same as those for trust corporations. The prime distinction between the two types of corporations being that only trust corporations can engage in the business of estate and trust administration.
16. Provision is made for increased protection for persons dealing with a corporation in its capacity as a provider of estate, trust and agency services.

17. The concept of a "restricted party" is introduced. Restricted parties, in general, are those people who are, or might reasonably be presumed to be, in a position to influence the decision making process in a corporation.
18. Rules against self-dealing are broadened. Self-dealing will include investments, loans and other transactions that involve restricted parties.
19. A market value test, for purposes of valuation, is introduced. A new test is also introduced for lending value for the purposes of mortgage lending.
20. Depositors will be entitled to obtain the annual financial statements of a corporation.
21. The regulatory system is strengthened. The Superintendent (formerly the Registrar) and the Director (a new officer) will have powers to order compliance with the Act. The Superintendent will also have the power to enter compliance programs. The Lieutenant Governor in Council will retain the present powers to seize a corporation.
22. New civil remedies such as tracing or recovery of assets through derivative actions and oppression remedies similar to those in the *Business Corporations Act, 1982* are provided.
23. There will be a compulsory review of the Act by the Legislature not later than 1997.

Bill 87

1986

An Act to revise the Loan and Trust Corporations Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND APPLICATION

1. In this Act,

Definitions

“accountant” means a person who is a member of The Canadian Institute of Chartered Accountants and includes a partnership of which the partners are members of The Canadian Institute of Chartered Accountants;

“affiliate” means a body corporate that is an affiliate within the meaning of subsection 2 (1);

1980-81,
c. 40 (Can.)

“bank” means a bank named in Schedule A or B to the *Bank Act* (Canada);

“body corporate” means any body corporate with or without share capital and wherever or however incorporated;

“branch” means an office of a corporation where it offers services to the public or where it provides fiduciary services;

“capital base” means the shareholders’ equity of a corporation calculated in the prescribed manner;

“common trust fund” means a fund maintained by a trust corporation in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment;

“company” means a body corporate that is not a loan corporation, a trust corporation or a municipality or any local board thereof;

“corporation” means a loan corporation or a trust corporation whether incorporated in or outside of Ontario;

“deposit”, in relation to a corporation, means money received by it under section 153;

“depositor” means a person who has a deposit in a corporation;

“Director” means the Director appointed under subsection 175 (2);

“extra-provincial corporation” means a corporation that was incorporated under the laws of Canada or of any province, other than Ontario, or of any territory of Canada;

“financial statement” means a statement referred to in subsection 119 (1);

“improved real estate” means real estate,

- (a) on which there exists a building used or capable of being used for residential, commercial, industrial, educational, professional, institutional, religious, charitable or recreational purposes,

- (b) on which a building capable of being used for residential, commercial, industrial, professional, institutional, educational, religious, charitable or recreational purposes is being or is about to be constructed,
- (c) on which *bona fide* farming operations are being conducted, or
- (d) vacant land within a municipality that is restricted by law in its use to commercial, industrial or residential purposes by zoning or otherwise;

"instrument of incorporation" means the special Act, charter, letters patent or other document incorporating or amalgamating a corporation and includes all amendments thereto;

"law of Ontario" includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;

"lending value", in relation to real estate, means the market value of the real estate reduced by such amounts as are attributable to contingencies or assumptions that have affected the market value of the real estate but which may not occur, multiplied by the lesser of,

- (a) 75 per cent, or
- (b) such percentage less than 75 per cent as the corporation has determined in accordance with its prudent investment standards to be appropriate in the circumstances;

"loan corporation" means a body corporate incorporated or operated for the purpose of borrowing money from the public by receiving deposits and lending or investing such money but does not include a bank, an insurance corporation, a trust corporation, a credit union or *caisse populaire* incorporated or licensed under the *Credit Unions and Caisses Populaires Act* or an issuer registered under the *Investment Contracts Act*;

R.S.O. 1980,
cc. 102, 221

"market value" means the amount that might be expected to be realized in an arm's length sale in the open market by a willing seller to a willing buyer;

“Minister” means the Minister of Consumer and Commercial Relations or other such member of the Executive Council to whom the administration of this Act may be assigned;

“Ministry” means the Ministry of the Minister;

“mortgage” includes a charge or hypothec;

“offering corporation” means a corporation that is offering its securities to the public within the meaning of subsection 2 (5) and that is not the subject of an order of the Ontario Securities Commission deeming it to have ceased to be offering its securities to the public;

“officer” means the chairman and any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager and any other person designated an officer by by-law or by resolution of the directors and any other individual who performs functions for the corporation similar to those normally performed by an individual occupying any such office;

“principal place of business” means,

- (a) in the case of a provincial corporation, the place in Ontario designated in its instrument of incorporation as its head office or as its principal place of business, and
- (b) in the case of a registered extra-provincial corporation, the place in Ontario designated in its registration as its principal place of business;

“prescribed” means prescribed by the regulations;

“provincial corporation” means a corporation incorporated under the law of Ontario;

“real estate” includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein but does not include hydrocarbons, minerals or aggregates in or under the ground;

“registered corporation” means a corporation registered under this Act;

"registered form", when applied to a security, means a security that,

- (a) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
- (b) bears a statement that it is in registered form;

"regulations" means the regulations made under this Act;

"resident Canadian" means an individual who is,

- (a) a Canadian citizen ordinarily resident in Canada,
- (b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
- (c) a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;

1976-77,
c. 52 (Can.)

"restricted party" means a person who with respect to a corporation is,

- (a) an officer or director of the corporation,
- (b) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of the corporation,
- (c) a beneficial holder of 10 per cent or more of any class of non-voting shares of the corporation,
- (d) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of an affiliate of the corporation,
- (e) an affiliate of the corporation,
- (f) an employee or auditor of the corporation,
- (g) a director or officer of a body corporate described in clause (b) or (c),
- (h) a spouse or child of an individual described in clause (a), (b), (c) or (d),

- (i) any relative of an individual described in clause (a), (b), (c) or (d) or his or her spouse who has the same home as such individual or spouse,
- (j) a body corporate in which a person described in clause (a), (b), (c), (f), (g) or (h) is the beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares,
- (k) a person designated under section 139 as a restricted party;

“securities register” means the register referred to in subsection 126 (1);

“security” means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation and includes a warrant but does not include a deposit or any instrument evidencing a deposit in a corporation;

“special resolution” means a resolution that is,

- (a) submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
- (b) consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or the shareholder’s agent authorized in writing;

“spouse” means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage;

“subordinated note” means a note issued under section 156;

“Superintendent” means the Superintendent of Deposit Institutions appointed under this Act;

“total assets” means the shareholders’ equity and deposits of a corporation, calculated in the prescribed manner;

“trust corporation” means a body corporate incorporated or operated for the purpose of offering its services to the public to act as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor’s estate or committee of a mentally incompetent person’s estate and

for the purpose of receiving deposits from the public and of lending or investing such deposits;

“voting share” means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

2.—(1) For the purposes of this Act,

Deemed
affiliation

- (a) a body corporate shall be deemed to be affiliated with another body corporate if one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person; and
- (b) the affiliates of every body corporate shall be deemed to be affiliated with all other bodies corporate with which the body corporate is affiliated.

(2) For the purposes of this Act, except sections 59 to 61, a body corporate shall be deemed to be controlled by a person if,

Deemed
control

- (a) securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are held other than by way of security only by or for the benefit of that person; and
- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.

(3) For the purposes of this Act, a body corporate shall be deemed to be the holding body corporate of all of its subsidiaries.

Deemed
holding body
corporate

(4) For the purposes of this Act, a body corporate shall be deemed to be the subsidiary of another body corporate if it is controlled by that other body corporate.

Deemed
subsidiary

(5) For the purposes of this Act, where a person or group of persons owns beneficially, directly or indirectly, shares of a body corporate, that person or group of persons shall be deemed to own beneficially that proportion of shares of every other body corporate that is owned beneficially, directly or indirectly, by the first-mentioned body corporate, that is equal to the proportion of shares of the first-mentioned body cor-

“Down-
stream”
investments

porate that is owned beneficially, directly or indirectly, by that person or group of persons.

Offering
securities
to public

(6) For the purposes of this Act, a body corporate is offering its securities to the public only where,

R.S.O.1980,
c. 466

- (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Ontario Securities Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a body corporate that has fewer than fifteen security holders, the Ontario Securities Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as it may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

Related
persons

(7) For the purposes of sections 62 to 69 and section 166, a person shall be deemed to be related to,

- (a) every company or corporation of which the person beneficially owns, directly or indirectly, voting shares carrying more than 10 per cent of the voting rights attached to all voting securities of the company or corporation for the time being outstanding;
- (b) every partner of the person;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity; or
- (d) any spouse or child of the person or any relative of the person or the spouse who has the same home as the person.

3.—(1) This Act applies to all corporations unless specifically limited to provincial corporations. Application of Act

(2) Where there is a conflict between a provision of the instrument of incorporation of a provincial corporation or of any special Act of Ontario in relation to any corporation and a provision of this Act or the regulations, the provision of this Act or the regulations, as the case may be, prevails. Idem

4. This Act does not apply to a body corporate that is authorized, constituted or operated for the purpose of lending money on the security of real estate or for the purpose of investing money in mortgages, where the body corporate borrows only by way of, Non-application of Act

- (a) loans from banks in the usual course of business; or
- (b) the issue of debentures, notes or like obligations of an amount not less than \$100,000 each to any one person on the person's account, whereby the body corporate is not obligated or cannot by demand of the holder be obligated to repay the money secured by the debenture, note or obligation within five years from the date of its issue.

PART II

INCORPORATION AND INSTRUMENT OF INCORPORATION

5. The Lieutenant Governor in Council may incorporate a loan corporation by the issue of letters patent upon the application of any one or more persons. Incorporation of a loan corporation

6.—(1) An application for the issue of letters patent to incorporate a loan corporation shall follow the prescribed form and shall be filed with the Superintendent together with. Application for incorporation

- (a) evidence showing that at least \$5,000,000 of common shares has been subscribed for in good faith;
- (b) an application to be registered as a loan corporation; and
- (c) such other information, material and evidence as the form may specify.

(2) The Superintendent, upon the filing of an application for the issue of letters patent to incorporate a loan corporation, Notices, additional information

- (a) shall require notice of the application and notice of the application for registration, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business is to be located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Restriction
on
issue of
letters
patent

7. Letters patent for the incorporation of a loan corporation shall not be issued unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the locality where the principal place of business of the proposed corporation is to be located, there exists a public benefit and advantage for establishing a loan corporation or an additional loan corporation;
- (b) the proposed management is fit, both as to character and as to competence, to manage a loan corporation;
- (c) each person subscribing for 10 per cent or more of any class of shares of the proposed corporation can demonstrate the adequacy of their financial resources;
- (d) each proposed director is fit, both as to character and as to competence, to be a director of a loan corporation;
- (e) the proposed plan of operations is feasible; and
- (f) the proposed corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for incorporation.

Contents of
letters patent

8. The letters patent of a loan corporation shall set out,

- (a) the name of the corporation;
- (b) the municipality or geographic township in Ontario and the address including street name and number,

if any, where, the principal place of business is to be located;

(c) the classes and any maximum number of shares that the corporation is authorized to issue and the rights, privileges, restrictions and conditions attaching to each class of shares; and

(d) the full name, address of residence, citizenship and occupation of,

(i) each of the directors of the corporation,

(ii) every person who subscribed for 10 per cent or more of any class of shares of the corporation, and

(iii) each of the applicants.

9. A provincial loan corporation comes into existence on the day set out in its letters patent. Day of incorporation

10.—(1) On the application of a provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation. Supplementary letters patent

(a) to change its name;

(b) in the case of a provincial loan corporation, to continue it as a trust corporation;

(c) in the case of a provincial trust corporation, to continue it as a loan corporation; or

(d) to change the principal place of business of a corporation.

(2) On the application of the corporations involved, the Lieutenant Governor in Council may issue letters patent to amalgamate the corporations and continue them as one provincial corporation. Idem

(3) On the application of any provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation to, Idem

(a) add, change or remove any maximum number of shares that the corporation is authorized to issue;

- (b) create new classes of shares;
- (c) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrue dividends, in respect of all or any of its shares, whether issued or unissued;
- (d) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (e) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (f) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (g) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series; and
- (h) revoke, diminish or enlarge any authority conferred under clauses (f) and (g).

Special
resolution

(4) No application shall be made under subsection (1) or (3) unless it has been authorized by a special resolution of the provincial corporation.

Application

(5) An application for the issue of supplementary letters patent shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify and, in the case of an application under clause (1) (b), evidence that,

- (a) the stated capital account or accounts of the corporation is or are equal to or exceed \$10,000,000 and the capital base of the corporation equals or exceeds \$10,000,000; or
- (b) one or more responsible applicants has subscribed in good faith for shares of the corporation that, when issued and added to the stated capital account

and the capital base, will in both cases equal or exceed \$10,000,000.

(6) An application for the issue of supplementary letters patent under clause (1) (b) or (c) shall be accompanied by an application for registration as a trust corporation or loan corporation, as the case may be. Idem

(7) The Superintendent, upon the filing of an application for supplementary letters patent under subsection (1). Notice:
additional
information

(a) shall require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business in Ontario of the corporation is located; and

(b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

(8) Supplementary letters patent shall not be issued.

Rejection of
application

(a) to continue a provincial loan corporation as a trust corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

(i) in the locality where the principal place of business of the corporation is to be located there exists a public benefit and advantage for the trust corporation or for an additional trust corporation,

(ii) the management of the applicant is fit, both as to character and as to competence, to manage a trust corporation,

(iii) each person subscribing for 10 per cent or more of any class of shares of the corporation or who holds, or upon the issue of the supplementary letters patent will hold, 10 per cent or more of any class of its shares can demonstrate the adequacy of their financial resources,

- (iv) each director of the applicant is fit, both as to character and as to competence, to be a director of a trust corporation,
 - (v) the proposed plan of operations as a trust corporation is feasible, and
 - (vi) the corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for supplementary letters patent;
- (b) to continue a provincial trust corporation as a provincial loan corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that arrangements have been made to transfer to another registered trust corporation the business in relation to which the provincial trust corporation acted as a fiduciary and such arrangements are adequate to protect the persons in relation to which the provincial trust corporation acted in a fiduciary capacity;
- (c) to change the principal place of business of a provincial corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that in the locality where the proposed principal place of business is to be located there exists a public benefit and advantage for locating the principal place of business in the proposed location and the proposed plan of operations in the new location is feasible.

Deposits

(9) Clause (8) (b) does not apply so as to require a trust corporation that has applied to be continued as a loan corporation to transfer money received by it as deposits.

Idem

(10) Where supplementary letters patent have been issued to continue a loan corporation as a trust corporation,

- (a) deposits received by the loan corporation under clause 153 (1) (a) shall be deemed to be deposits received under clause 153 (2) (a); and
- (b) deposits received by the loan corporation under clause 153 (1) (b) shall be deemed to be deposits received under clause 153 (2) (b).

Idem

(11) Where supplementary letters patent have been issued to continue a trust corporation as a loan corporation,

- (a) deposits received by the trust corporation under clause 153 (2) (a) shall be deemed to be deposits received under clause 153 (1) (a); and
- (b) deposits received by the trust corporation under clause 153 (2) (b) shall be deemed to be deposits received under clause 153 (1) (b).

11.—(1) Subject to subsection (2), letters patent or supplementary letters patent shall not be issued to a corporation that has a name, Names

- (a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;

- (b) that is the same or similar to,

- (i) the name of a known,

- (A) body corporate,

- (B) trust,

- (C) association,

- (D) partnership,

- (E) sole proprietorship, or

- (F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive:
or

- (c) that in the case of a trust corporation does not include,

- (i) "trust corporation",

- (ii) "trust company",

(iii) "trustco", or

(iv) "trust" together with a designation such as "limited" or "incorporated".

Idem

(2) Notwithstanding clause (1) (b), a corporation may have a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Change of
name if
objectionable

(3) Where, through inadvertence or otherwise, a provincial corporation has obtained a name contrary to this section, the Lieutenant Governor in Council, on the recommendation of the Superintendent, may issue supplementary letters patent changing the name of the corporation to a name specified in the supplementary letters patent.

Hearing

(4) Before making a recommendation under subsection (3), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Decision is
final

12.—(1) The decision of the Lieutenant Governor in Council to approve or reject an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 144 is final and not subject to appeal, but nothing in this subsection prevents an applicant from making a new application.

Notice

(2) Where the Lieutenant Governor in Council approves or rejects an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 144, the Superintendent shall forthwith notify the applicant in writing.

Powers of
corporation

13. Subject to this Act and any terms, conditions and restrictions imposed on its registration, a provincial corporation,

(a) has the capacity and the rights, powers and privileges of a natural person; and

(b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit.

PART III

WINDING UP, DISSOLUTION AND MERGER

14. Except where Part VI of the *Corporations Act* is inconsistent with this Act, that Part applies to the winding up of a provincial corporation, substituting the word "Superintendent" for the word "Minister".

Winding up
R.S.O. 1980,
c. 95

15.—(1) Where a provincial corporation fails to go into *bona fide* operation within two years of the date of incorporation or having done so it ceases *bona fide* operation for a period of two consecutive years, the Lieutenant Governor in Council, on the recommendation of the Superintendent and upon such terms and conditions as the Lieutenant Governor in Council considers appropriate, may order the cancellation of the instrument of incorporation of the corporation and it is dissolved on the date fixed in the order.

Cancellation
for non-use

(2) Before making a recommendation under subsection (1), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Hearing

(3) Where a provincial corporation has been dissolved under subsection (1), the Lieutenant Governor in Council may revive the corporation by order, upon the application therefor of any interested person.

Revival

(4) Upon the date set out in an order under subsection (3), the corporation, subject to such terms and conditions as may be set out in the order, is revived and, subject to any rights acquired by any person after the dissolution, the corporation is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Issue

16.—(1) Notwithstanding the dissolution of a provincial corporation under section 15,

Actions after
dissolution

- (a) every proceeding commenced in or before any court or tribunal by or against the corporation, its officers or directors before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a proceeding may be brought in or before any court or tribunal against the corporation, its officers or directors within five years after its dissolution as if the corporation had not been dissolved; and

- (c) all real or personal property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after
dissolution

(2) For the purposes of this section, the service of any process on a provincial corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the public file referred to in section 138 as being a director or officer of the corporation before the dissolution.

Idem

(3) Where any proceeding has been brought against a provincial trust corporation after its dissolution, notice of the commencement of the proceeding, together with the originating process by which the proceeding was commenced, shall be served upon the Public Trustee.

Liability of
shareholders
to creditors

17.—(1) Notwithstanding the dissolution of a provincial corporation under section 15, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 16 to the extent of the amount received by that shareholder upon the distribution, and a proceeding to enforce such liability may be commenced within five years after the date of the dissolution of the corporation.

Party action

(2) The court hearing an action referred to in subsection (1) may order the action to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes a claim, the court may refer the proceedings to a referee or other officer of the court.

Idem

(3) Where a reference is made under subsection (2), the referee or other officer may,

- (a) add as a party to the proceedings before him or her each person who was a shareholder found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and
- (c) direct payment of the amounts so determined.

Definition

(4) In this section, "shareholder" includes the heirs and legal representatives of a shareholder.

18.—(1) All property of a provincial corporation that has not been disposed of at the date of its dissolution whether under this or any other Act is forfeit to the Crown. Forfeiture of undispensed property

(2) All property that immediately before the dissolution of a provincial trust corporation was being held in trust by it shall be delivered forthwith by the persons who were its officers and directors before its dissolution to the Public Trustee. Trust property

(3) Where property is not delivered as required by subsection (2), the Public Trustee may do such things as may be necessary to obtain the property. Idem

(4) All property received by the Public Trustee under subsections (2) and (3) shall be held in trust by the Public Trustee for the beneficiaries of the trusts. Idem

(5) Where an order is made in a proceeding referred to in section 16 and the order affects property forfeited to the Crown under subsection (1), the property shall be available to satisfy the order. Property available to satisfy order of court or tribunal

19.—(1) Two or more corporations, of which at least one is a provincial corporation, may amalgamate and continue as one provincial corporation or, subject to the law of the receiving jurisdiction, as one extra-provincial corporation. Amalgamation

(2) A provincial corporation may sell all of its assets to any corporation in Canada if the purchasing corporation assumes all of the liabilities of the provincial corporation. Asset sale

(3) A provincial corporation may purchase all of the assets of any corporation in Canada if the provincial corporation assumes all of the liabilities of the vendor corporation. Asset purchase

(4) Subsection (1) does not apply to an extra-provincial corporation unless under the law of the jurisdiction in which it is incorporated it has the power to amalgamate with a provincial corporation. Proviso re: amalgamation

(5) Part XV of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act. Compulsory acquisitions 1982, c. 4

20.—(1) Where corporations propose to amalgamate or purchase or sell assets under section 19, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation or purchase and sale. Mandatory agreement

When
agreement
effective

(2) No agreement for the amalgamation of corporations or the purchase or sale of the assets of a corporation shall take effect until all approvals required by this Part have been given.

Contents of
agreement,
amalgamation

(3) Where corporations propose to amalgamate the agreement referred to in subsection (1), shall set out,

- (a) the proposed name of the amalgamated corporation;
- (b) the municipality or geographic township in Ontario and the address, including street name and number, if any, where the principal place of business of the amalgamated corporation is to be located;
- (c) the classes of shares that the amalgamated corporation may issue and the rights and privileges, restrictions and conditions attaching to each class of share;
- (d) the full name, address of residence, citizenship and occupation,
 - (i) of each of the first directors of the amalgamated corporation,
 - (ii) of every person who will hold immediately upon the amalgamation 10 per cent or more of any class of the shares of the amalgamated corporation;
- (e) the manner of converting the shares of the amalgamating corporations into shares of the amalgamated corporation; and
- (f) the proposed effective date of the amalgamation.

Submission
of agreement

(4) An agreement to amalgamate corporations or to purchase or sell the assets of a corporation to another corporation shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the agreement into consideration.

Submission
of offer

(5) Where an offer has been made to a corporation with respect to the purchase of all of its assets and no agreement is reached, the offer, at the request of the corporation making the offer, shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the offer into consideration.

(6) Each corporation required by subsection (4) or (5) to hold a meeting shall deliver notice of the meeting and a copy of the agreement or offer to the Superintendent at least twenty-one days before the meeting.

Notice of
meeting

21. At each of the meetings required by subsection 20 (4) or (5), the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights are present in person or represented by proxy and the agreement or offer is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary of each corporation.

Proceedings
to approve
agreement

22.—(1) The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the approval of the agreement or offer by the shareholders of the purchasing corporation if the Lieutenant Governor in Council is satisfied that the shareholders, after due notice thereof, have approved a general resolution or by-law authorizing the purchase of the assets of any corporation upon the basis and within the limits specified in such agreement or offer.

Dispensing
with approval

(2) An offer to which subsection 20 (5) applies shall be deemed for all purposes to be an agreement when it has been certified by the secretary of the vendor corporation under section 21 and it has either been certified by the secretary of the purchasing corporation as required by that section or the approval of the offer by the shareholders of the purchasing corporation has been dispensed with under subsection (1).

When offer
becomes
agreement

23.—(1) If the agreement is approved and certified in accordance with section 21 by the shareholders of each of the corporations or, in the case provided for in section 22, at the meeting of shareholders of the vendor corporation, the agreement, with the certificates or certificate thereon, shall be filed with the Superintendent and the Superintendent shall submit the agreement to the Lieutenant Governor in Council for approval.

Submission
to
Lieutenant
Governor in
Council

(2) In the case of an amalgamation, an agreement filed under subsection (1) shall be accompanied by an application for initial registration under subsection 31 (1) for the amalgamated corporation and, if the amalgamated corporation will be a provincial corporation, by an application for supplementary letters patent.

Idem

Notice.
information

(3) The Superintendent, upon the filing of an agreement and before submitting the agreement to the Lieutenant Governor in Council,

- (a) shall require notice of the agreement, containing such information as the Superintendent may require, to be published by the parties to the agreement in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and in the case of an amalgamation, in the locality where the principal place of business of the amalgamated corporation is to be located; and
- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided by or under any other section of this Act.

Refusal of
approval

(4) The Lieutenant Governor in Council shall refuse approval of the agreement unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the case of an amalgamation,
 - (i) there exists a public benefit and advantage for the amalgamation of the corporations,
 - (ii) the proposed management is fit, both as to character and as to competence, to manage the amalgamated corporation,
 - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the amalgamated corporation immediately after the amalgamation can demonstrate the adequacy of their financial resources,
 - (iv) each proposed first director is fit as to character and as to competence to be a director of the amalgamated corporation,
 - (v) the proposed plan of operations for the amalgamated corporation is feasible, and
 - (vi) the amalgamated corporation intends to offer to the public, initially or within a reasonable

time after the amalgamation, the services set out in the amalgamation agreement;

- (b) in the case of a purchase and sale of assets,
 - (i) there exists a public benefit and advantage if the purchase and sale is completed,
 - (ii) the proposed plan of operations for the purchasing corporation upon the closing of the purchase agreement is feasible;
- (c) in the case where one of the parties to the agreement is a trust corporation and the amalgamated or purchasing corporation is a loan corporation, the arrangements referred to in subsection 29 (2) are adequate to protect the persons in relation to which the trust corporation, before the approval of the agreement, is acting in a fiduciary capacity; and
- (d) where the amalgamated corporation is a loan corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$5,000,000 or, where the amalgamated corporation is a trust corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$10,000,000.

24.—(1) In this section, “Superintendent’s certificate” Definition
means a certificate issued under subsection (2).

(2) Where the Lieutenant Governor in Council approves an agreement submitted under subsection 23 (1), the Superintendent shall issue a certificate certifying, Superintendent’s
certificate

- (a) that the approval of the Lieutenant Governor in Council has been given and the date of the approval;
- (b) in the case of a purchase or sale of assets, the name of each corporation that is a party to the transaction and whether the party is a vendor or a purchaser;
- (c) in the case of an amalgamation, the names of the corporations that are amalgamating, the name of the amalgamated corporation and the date upon which the amalgamation takes effect; and

- (d) such other matters, if any, as in the opinion of the Lieutenant Governor in Council are necessary or desirable in the public interest.

Effect as
evidence

(3) A Superintendent's certificate is for all purposes *prima facie* proof of all matters set out therein.

Notice

(4) Notice of the issue of a Superintendent's certificate shall be published in *The Ontario Gazette* by the Superintendent.

Certificate of
Superin-
tendent

(5) Any document signed by or purportedly signed by the Superintendent, certifying the document to be or to contain a true copy of the Superintendent's certificate or of any instrument referred to in the certificate, may be registered in any land registry office upon it being tendered for registration accompanied by the proper fee, if any.

Registration

(6) It is sufficient to register a certified copy of the Superintendent's certificate in each land registry office in which instruments affecting land or interests in land, included or intended to be included in the amalgamation or purchase and sale, are registered.

Security
interest
R.S.O. 1980,
c. 375

(7) For the purposes of the *Personal Property Security Act*, it is sufficient, in order to show the vesting in the continuing corporation of any interest in personal property that constitutes a security interest within the meaning of that Act and for which one of the amalgamating corporations is shown as a secured party in any financing statement registered under that Act, for a financing change statement to be registered in respect of the vesting as if the interest had been assigned.

Assets of
vendor
corporation
vest in
purchasing
corporation

25.—(1) In the case of a purchase of the assets of a corporation that has been approved by the Lieutenant Governor in Council, the assets of the vendor corporation become vested in the purchasing corporation on and from the date of the approval without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the vendor corporation.

Disposal of
assets by
purchasing
corporation

(2) In dealing with the assets of the vendor corporation, it is sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant Governor in Council thereto, with the date of assent.

Rights of
creditors

26.—(1) A sale of the assets of a corporation does not affect the rights of any creditor of the vendor corporation.

(2) An agreement made or purporting to be made under this Act to purchase the assets of a corporation shall be deemed to contain a covenant and agreement with each creditor of the vendor corporation that the purchasing corporation will pay to the creditor the amount of the vendor corporation's indebtedness to the creditor at such time and place as the amount would have been payable had the agreement to purchase not been made.

Privity of contract between purchasing corporation and each creditor of vendor corporation

(3) Where the Lieutenant Governor in Council approves an agreement for the sale of the assets of a corporation, the vendor corporation is, from the date of the approval, dissolved, except so far as is necessary to give full effect to the agreement.

Dissolution of vendor corporation

27.—(1) In the case of an amalgamation,

Amalgamation

- (a) if the amalgamated corporation is a provincial corporation, the parties to the amalgamation, from the date set out in the letters patent of amalgamation, shall continue as one provincial corporation under the name stated in the letters patent;
- (b) if the amalgamated corporation is an extra-provincial corporation, every provincial corporation that is a party to the agreement is, from the effective date of the amalgamation under the laws of the jurisdiction under which the continuing corporation is incorporated, amalgamated with the other parties to the agreement and it shall continue with them as one corporation;
- (c) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal liabilities, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (d) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (e) the letters patent of amalgamation are deemed to be the instrument of incorporation of the amalgamated corporation; and
- (f) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil proceeding commenced by

or against an amalgamating corporation before the amalgamation has become effective.

Continuation
in another
jurisdiction

(2) Where the amalgamating corporations are to continue as one extra-provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction specified in the amalgamation agreement for an instrument amalgamating and continuing them as one corporation under the laws of that jurisdiction and, incidental to the application, every provincial corporation that is a party to the agreement may apply to the proper officer of that jurisdiction for an instrument continuing it as if it had been incorporated under the laws of that jurisdiction.

Acquisition
of assets or
amalgamation
by purchase
of shares

28.—(1) In addition to its powers under section 19, for the purpose of either acquiring the assets of any other corporation in Canada or amalgamating with any such corporation under this Part, a corporation may purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

1. No such purchase shall be made except with the prior approval of the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council shall deny approval unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
 - i. there exists a public benefit and advantage for the purchase,
 - ii. the management of the purchasing corporation is fit both as to character and as to competence, to manage the corporation as it will exist after it completes the purchase of the assets or the amalgamation,
 - iii. each person who holds 10 per cent or more of any class of shares of the purchasing corporation can demonstrate the adequacy of their financial resources,
 - iv. each director is fit as to character and as to competence to be a director of the corporation as it will exist after it completes the purchase of the assets or the amalgamation, and

- v. the proposed plan of operations for the corporation as it will exist after it completes the purchase of the assets or the amalgamation is feasible.
- 3. The Lieutenant Governor in Council may approve the purchase where,
 - i. an offer to purchase shares has been accepted.
 - A. in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation, or
 - B. by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such corporation at a general meeting of the shareholders thereof, and
 - ii. the offer to purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued shares of such corporation for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
- 4. A corporation may purchase shares under this section notwithstanding any other provision of this Act so long as the provisions of this section are satisfied.
- 5. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been approved by the Lieutenant Governor in Council proceed under this Part either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or amalgamate with the other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time.
- 6. After the expiration of the period referred to in paragraph 5 and every extension thereof, the Super-

intendent may direct the corporation to dispose of the shares.

Consideration
for shares

(2) The consideration for the shares acquired under the authority of this section may be cash or voting shares of the purchasing corporation or may be partly cash and partly voting shares of the purchasing corporation or may be such other consideration as may be agreed upon.

No power to
purchase own
shares

(3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

Application

(4) A corporation purchasing shares under this section shall file an application for the approval required by subsection (1) with the Superintendent.

Notice,
information

(5) The Superintendent, upon the filing of an application for the approval required by subsection (1),

(a) shall require notice of the purchase, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business in Ontario of the continuing corporation is to be located; and

(b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided by or under any other provision of this Act.

Definition

29.—(1) In this section, “acquiring corporation” means,

(a) the amalgamated corporation resulting from the amalgamation of one or more corporations; or

(b) a corporation that purchases the assets of another corporation,

under this Part and for the purposes of subsections (5), (6) and (7) includes a corporation that is a transferee of the business in relation to which a trust corporation that is a party to an agreement of amalgamation or purchase and sale of assets acted as a fiduciary.

(2) Before making the filing with the Superintendent required by subsection 23 (1), where one or more of the corporations that is a party to the amalgamation or purchase of assets is a trust corporation and the acquiring corporation is to be a loan corporation, the parties to the transaction shall make such arrangements as may be necessary to transfer to another trust corporation the business in relation to which the trust corporation acted as a fiduciary but this subsection does not apply so as to require a trust corporation to transfer to another trust corporation money received by it as deposits.

Transfer of
estate, trust
and agency
business

(3) Where the acquiring corporation is,

Deposits

(a) a trust corporation and one of the parties to the amalgamation or purchase of assets is a loan corporation,

(i) deposits received by the loan corporation under clause 153 (1) (a) shall be deemed to be deposits received under clause 153 (2) (a), and

(ii) deposits received by the loan corporation under clause 153 (1) (b) shall be deemed to be deposits received under clause 153 (2) (b); and

(b) a loan corporation and one of the parties to the amalgamation or purchase of assets is a trust corporation,

(i) deposits received by the trust corporation under clause 153 (2) (a) shall be deemed to be deposits received under clause 153 (1) (a), and

(ii) deposits received by the trust corporation under clause 153 (2) (b) shall be deemed to be deposits received under clause 153 (1) (b).

(4) On the approval of the Lieutenant Governor in Council as provided in section 23 to the amalgamation or purchase and sale of assets,

Trust to
pass

(a) in a case to which subsection (2) applies, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the transferor of the business in relation to which the trust corporation that was a party to the amalgamation or purchase and sale is making

the transfer are vested in and bind and may be enforced against the transferee as fully and effectually as if it had been originally named as the fiduciary in the instrument; and

- (b) in any other case, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the acquiring corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject-matter of trust to vest in acquiring corporation

(5) Wherever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the vendor corporation or of any of the amalgamating corporations as fiduciary, the name of the acquiring corporation shall be deemed to be substituted for the name of the vendor or amalgamating corporation, and such instrument vests the subject-matter therein described in the acquiring corporation according to the tenor of, and at the time indicated or intended by the instrument, and the acquiring corporation shall be deemed to stand in the place and stead of the vendor or amalgamating corporation.

References in will or codicil

(6) Where the name of the vendor corporation or of any of the amalgamating corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the acquiring corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the vendor or amalgamating corporation.

Duties not completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or litigation guardian issued or made by any court in Ontario to the vendor corporation or to any of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the acquiring corporations shall *ipso facto* be substituted therefor.

PART IV

REGISTRATION

Registration

30.—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to

be registered and may be acceptable for registration, and of granting registration accordingly, is upon the Superintendent.

(2) The registers known as the "Loan Companies' Register" and the "Trust Companies' Register" are hereby continued as the "Loan Corporations' Register" and "Trust Corporations' Register", respectively. Registers continued

(3) The Superintendent shall keep the registers and shall cause to be recorded, Superintendent to keep registers

(a) in the Loan Corporations' Register, the name of each loan corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed; and

(b) in the Trust Corporations' Register, the name of each trust corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed.

(4) A corporation may be registered in either the Loan Corporations' Register or the Trust Corporations' Register. Idem

(5) The Superintendent shall note in the appropriate register, Idem

(a) all terms, conditions and restrictions imposed on the registration of a corporation;

(b) the fact that the registration of a corporation has been revoked or has not been renewed;

(c) the fact that a registered loan corporation has been continued as a registered trust corporation or *vice versa*.

31.—(1) A corporation duly constituted or incorporated under the laws of Ontario or of Canada or of another province or territory of Canada may apply for initial registration as a loan corporation or as a trust corporation. Application for registration

(2) A registered loan corporation may apply to change its registration to that of a trust corporation and a registered trust corporation may apply to change its registration to that of a loan corporation. Change

Idem

(3) A registered corporation may apply to amend the terms, conditions and restrictions of its registration.

Definition

(4) In this section and sections 32 to 39, "application for registration" means an application under subsection (1) for initial registration, an application under subsection (2) for a change in registration or an application under subsection (3) to change terms, conditions and restrictions imposed on a registration.

Material to be furnished

(5) An application for registration shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify.

Notice, additional information

(6) Where the Superintendent receives an application for the registration, the Superintendent may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business of the corporation is located or is to be located.

Additional information

(7) Where the Superintendent receives an application for the registration of a corporation, the Superintendent may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Protection of depositors

(8) An application for registration shall be accompanied by evidence that the corporation will from the time of registration be a member of the Canada Deposit Insurance Corporation or that the corporation's deposits will be insured by some other similar public agency approved by the Superintendent up to the maximum amounts permitted by the agency.

Estate, trust and agency services

(9) An application for registration as a trust corporation shall set out the services in relation to which the corporation proposes to act in a fiduciary capacity.

Registration of extra-provincial corporations

32.—(1) Where an extra-provincial corporation applies for registration, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario and an undertaking to the Superintendent signed by the proper corporate officers that the corporation and its subsidiaries will provide such information as the Superintendent may request and will adhere to this Act and to the terms, conditions and restrictions, if any, imposed on its registration.

(2) A power of attorney under this section shall be under the seal of the corporation, if applicable in the jurisdiction of incorporation of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness.

Execution of
power of
attorney

(3) An undertaking under this section shall be accompanied by a certified copy of the resolution of the board of directors authorizing the corporation's officers to apply for registration under this Act and authorizing the execution of the undertaking.

Authenti-
cation

(4) A power of attorney under this section shall be in the prescribed form and shall be accompanied by the affidavit or statutory declaration of the witness referred to in subsection (2) attesting to the due execution of the power of attorney.

Contents of
power of
attorney

(5) The production of a copy of a power of attorney under this section certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person or persons named therein to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

Effect of
copy as
evidence

(6) When an extra-provincial corporation changes any of its agents in Ontario, it shall forthwith file with the Superintendent a new power of attorney in the prescribed form.

Changes in
chief agent
or agency

33. The Superintendent shall reject an application for registration,

Rejection of
application

(a) unless the capital base of the corporation is at least \$5,000,000 in the case of a loan corporation and \$10,000,000 in the case of a trust corporation;

(b) unless the corporation has satisfied the Superintendent that it has the capacity and power to engage in the activities of a loan corporation or a trust corporation, as the case may be;

(c) if the applicant is not a corporation described in subsection 31 (1);

(d) subject to section 34, unless it is shown to the satisfaction of the Superintendent that,

(i) in the locality where the principal place of business is located or is to be located there exists a public benefit and advantage for the registration of a corporation or for an addi-

tional corporation of the kind for which registration is sought,

- (ii) the management is fit, both as to character and as to competence, to manage a corporation of the kind for which registration is sought,
 - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the applicant immediately after the registration can demonstrate the adequacy of their financial resources,
 - (iv) each director is fit, both as to character and as to competence, to be a director of the corporation of the kind for which registration is being sought,
 - (v) the proposed plan of operations of the corporation is feasible, and
 - (vi) the applicant intends to offer, to the public, initially or within a reasonable time after registration, the services set out in the application for registration and the applicant has the capability to provide such services; or
- (e) if the Superintendent is not satisfied as to the adequacy of any information received with or in support of the application for registration.

Approval
subject to
conditions
and
restrictions

34.—(1) Where the Superintendent is not satisfied as to all of the matters referred to in clause 33 (a), (b) or (d), the Superintendent in lieu of rejecting the application may approve the application for registration of the applicant,

- (a) as a corporation of a kind other than that which the application for registration was made and subject to such terms, conditions and restrictions as the Superintendent may impose; or
- (b) as the kind of corporation for which the application for registration was made but subject to such terms, conditions and restrictions as the Superintendent may impose.

Hearing

(2) Before rejecting an application or before granting an application subject to terms, conditions and restrictions, the

Superintendent shall give the corporation an opportunity to be heard before him or her.

35. With the consent of the registered corporation, the Superintendent may impose terms, conditions and restrictions on the registration of a corporation or terms, conditions and restrictions in addition to those previously imposed on the registration of the corporation and subsection 34 (2) does not apply to such terms, conditions and restrictions.

Voluntary
terms and
conditions

36. At the request of a registered corporation, the Superintendent may revoke its registration subject to such terms, conditions and restrictions as the Superintendent may impose.

Cancellation
of
registration
on request of
corporation

37.—(1) Subject to subsection (2), no corporation shall be registered that has a name,

Names

(a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;

(b) that is the same or similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive;
or

(c) that in the case of a trust corporation does not include,

(i) "trust corporation",

(ii) "trust company",

(iii) "trustco", or

(iv) "trust" together with a designation such as "limited" or "incorporated".

Idem

(2) Notwithstanding clause (1) (b), a corporation may be registered with a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Use of
different
name
may be
required

(3) Where a corporation has a name that contravenes subsection (1), the Superintendent may register the corporation if it undertakes to either change its name to a name that does not contravene subsection (1) or if it undertakes to carry on business in Ontario under a name that does not contravene subsection (1).

Change of
name

(4) Where, through inadvertence or otherwise, a corporation has obtained registration under a name that contravenes subsection (1), the Superintendent, after giving the corporation an opportunity to be heard, may order as a condition of registration that the corporation carry on business under a name specified in the order.

Transition

38.—(1) If a corporation was registered under a predecessor of this Act and the registration was valid and subsisting immediately before the coming into force of this Act, the corporation, without being registered under this Act, may continue to carry on business in Ontario for sixty days following the coming into force of this Act and thereafter it may continue to carry on business in Ontario if within that sixty-day period it files an application for initial registration under section 31.

Idem

(2) Where an application referred to in subsection (1) is filed within the sixty-day period, the corporation, without being registered under this Act, may continue to carry on business in Ontario until the day the Superintendent rejects or approves the application.

Extra-pro-
vincial
corporations-
conditions of
registration

39.—(1) No extra-provincial corporation shall be registered unless under its instrument of incorporation, its by-laws and the laws of the jurisdiction in which it is incorporated, the corporation and its shareholders, directors, officers,

employees and auditors are able to satisfy the requirements of sections 59 to 68, subsections 89 (2), (3), (4) and (5), sections 90, 96, 98, 100, 101, 102, 105, 106, 107, 108, 109 and 111 and Part VIII as if the extra-provincial corporation were a provincial corporation and those provisions, upon registration, apply to the extra-provincial corporation and its shareholders, directors, officers, employees and auditors as if the corporation were a provincial corporation.

(2) It shall be deemed to be a term of registration of every extra-provincial corporation that its registration expires forthwith if its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it was incorporated are amended so that the persons referred to in subsection (1) are not able to satisfy the provisions of this Act referred to in that subsection. Idem

(3) Where the Superintendent is of the opinion that the depositors of an extra-provincial corporation are adequately protected, the Superintendent may register an extra-provincial corporation that would be unable to satisfy any of the provisions of this Act referred to in subsection (1) without being in contravention of the laws of the jurisdiction in which it is incorporated. Idem

PART V

SHARES AND SHAREHOLDERS

40. For the purposes of sections 47, 48, 50 and 54, deposits in a trust corporation shall be deemed to be a liability of the corporation notwithstanding that the deposit is held by it as trustee. Deemed liability

41.—(1) Shares of a provincial corporation shall be in registered form and shall be without nominal or par value. Shares

(2) Shares with a nominal or par value of a provincial corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value. Idem

42.—(1) Every provincial corporation shall have at least one class of shares designated as "common shares" in which the rights of the holders thereof are equal in all respects and shall include, Common shares

(a) the right to vote at all meetings of shareholders;

- (b) the right to receive the remaining property of the corporation upon dissolution; and
- (c) the right to receive dividends of the corporation if declared on such shares.

Other classes of shares

(2) Classes of shares in addition to common shares may be provided for in the instrument of incorporation and the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the instrument of incorporation but such shares shall not be designated as "common shares" or by any variation of that term.

Issuance of shares

(3) Subject to this Act and the instrument of incorporation, shares may be issued at such time and to such persons and for such consideration as the directors may determine.

Shares non-assessable

(4) Shares issued by a provincial corporation are non-assessable and the holders are not liable to the provincial corporation or to its creditors in respect thereof.

Fully paid shares

(5) On and after the day this section comes into force, a share in a provincial corporation shall not be issued until the consideration for the share is fully paid in Canadian dollars and received by the corporation.

Separate capital account

43.—(1) A provincial corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A provincial corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration.

Limitation on additions to stated capital account

(3) On the issue of a share, a provincial corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

Transition

(4) Notwithstanding subsection (2), on the day this Act comes into force, the amount in the stated capital account maintained by a provincial corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and a provincial corporation may, upon complying with subsection (5), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

(5) Where a provincial corporation proposes to add any amount, other than an amount to be added under subsection 54 (2), to a stated capital account that it maintains in respect of a class or series of shares, the addition to the stated capital account must be approved by special resolution if,

Special resolution additions to stated capital account

(a) the amount to be added,

(i) was not received by the provincial corporation as consideration for the issue of shares, or

(ii) was received by the provincial corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the provincial corporation has outstanding shares of more than one class or series.

(6) Where a class or series of shares of a provincial corporation would be affected by the addition of an amount to any stated capital account in a situation where a special resolution is required under subsection (5) in a manner different from the manner in which any other class or series of shares of the provincial corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Idem

44.—(1) Subject to its instrument of incorporation, the directors of a provincial corporation may authorize the issue of any class of shares other than common shares in one or more series and they may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.

Special shares in series

(2) If any amount,

Proportionate abatement

(a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or

(b) payable on return of capital in the event of the liquidation, dissolution or winding up of a provincial corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

- (c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or
- (d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority
of shares of
same class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

- (a) dividends; or
- (b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class.

Conversion
privileges

45.—(1) A provincial corporation may issue warrants as evidence of conversion privileges or options or rights to acquire its securities and it shall set out the conditions thereof,

- (a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or
- (b) in separate certificates or other documents.

Idem

(2) Conversion privileges and options or rights to purchase securities of a provincial corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached.

Corporation
to maintain
sufficient
reserve

(3) Where a provincial corporation has granted privileges to convert any securities, other than shares issued by it, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and, where the instrument of incorporation limits the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights.

Subsidiaries
not to hold
shares in
holding body
corporate

46. Except as provided in sections 47 to 49, a provincial corporation,

- (a) shall not hold shares in itself or in its holding body corporate; and
- (b) shall not permit any of its subsidiaries to hold shares in the corporation or in the holding body corporate of the corporation.

47.—(1) Subject to subsection (2) and to its by-laws, a provincial corporation may, on notice to the Superintendent, purchase or otherwise acquire shares issued by it to, Purchase of issued shares.

- (a) settle or compromise a debt or claim asserted by or against the corporation;
- (b) eliminate fractional shares; or
- (c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

(2) A provincial corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that, Restriction on payment

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired; or
- (c) the effect of the purchase would be to cause the corporation to be in contravention of this Act or the regulations.

48.—(1) Subject to subsection (2) and to its by-laws and on notice to the Superintendent, a provincial corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price calculated according to a formula stated in the by-laws. Redemption of shares

Restriction
on
redemption

(2) A provincial corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed; or
- (c) the effect of the redemption would be to cause the corporation to be in contravention of this Act or the regulations.

Donation of
share

49. A provincial corporation may accept from any shareholder a share of the corporation surrendered to it as a gift.

Reduction of
stated capital
account

50.—(1) Subject to subsection (4) and its instrument of incorporation, a provincial corporation, by special resolution and with the approval of the Superintendent, may reduce its stated capital for any purpose.

Right to
vote

(2) Where a class or series of shares of a provincial corporation would be affected by a reduction of stated capital under subsection (1) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote.

Account
reduced to
be
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital affected by the special resolution will be made.

Restriction
on reduction

(4) A provincial corporation shall not take any action to reduce its stated capital for any purpose other than the purpose of declaring it to be reduced by an amount that is not represented by realizable assets if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due;
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities; or
- (c) the effect of the reduction would be to cause the corporation to be in contravention of this Act or the regulations.

(5) A shareholder, creditor or depositor of a provincial corporation is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Application
for order
where
improper
reduction

(6) Where it appears that there are numerous shareholders who may be liable under this section, the High Court of Justice may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes a claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined.

Class action

(7) No person holding shares in the capacity of a personal representative and registered on the records of the provincial corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section.

Shareholder
holding
shares
in fiduciary
capacity

(8) This section does not affect any liability that arises under section 105.

Liability
not affected

51.—(1) Upon a purchase, redemption or other acquisition by a provincial corporation under section 47, 48 or 55 of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares

Reduction of
stated capital
account

of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Adjustment
in stated
capital
account

(2) A provincial corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 50 (3).

Idem

(3) Upon a change in issued shares of a provincial corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

- (a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(4) For the purpose of subsection (3), where a provincial corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of
shares
purchased

(5) Shares of any class or series or fractional shares issued by a provincial corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the instrument of incorporation limits the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class.

Conversion
of shares

(6) Where shares of a class or series are changed or converted pursuant to their terms into the same or another num-

ber of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted.

52.—(1) A contract with a provincial corporation providing for the purchase by it of its own shares is specifically enforceable against it except to the extent that it can not perform the contract without thereby being in breach of section 47 or 48.

Contract with corporation re purchase of its shares

(2) In any action brought on a contract referred to in subsection (1), the provincial corporation has the burden of proving that performance thereof is prevented by section 47 or 48.

Idem

(3) Until the provincial corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of depositors, creditors and holders of subordinated notes but in priority to the other shareholders.

Idem

53. The directors of a provincial corporation may authorize the corporation to pay a reasonable commission to any person in consideration of the person,

Commission on sale

- (a) purchasing or agreeing to purchase shares of the corporation from it or from any other person; or
- (b) procuring or agreeing to procure purchasers for any such shares.

54.—(1) The directors of a provincial corporation may declare and a provincial corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a provincial corporation may pay a dividend in money or property.

Declaration of dividends

(2) If shares of a provincial corporation are issued in payment of a dividend, it shall add to the stated capital account maintained or to be maintained for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money.

Share dividend

(3) The directors shall not declare and a provincial corporation shall not pay a dividend if there are reasonable grounds for believing that,

When dividend not to be declared

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would thereby be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) its stated capital of all classes; or
- (c) the effect of the payment would be to cause the corporation to be in contravention of this Act or the regulations.

Lien on
shares

55.—(1) The by-laws of a provincial corporation may provide that it has a lien on a share registered in the name of a shareholder or the shareholder's legal representative for a debt of that shareholder to the provincial corporation.

Where
subs.(1)
does not
apply

(2) Subsection (1) does not apply to a provincial corporation that has shares listed on, or traded through the facilities of, a stock exchange recognized by the Ontario Securities Commission.

Enforcement
of lien

(3) A provincial corporation may enforce a lien referred to in subsection (1) in accordance with its by-laws.

Restrictions
on issue,
transfer, etc.

56. A provincial corporation shall not impose restrictions on the issue, transfer or ownership of shares of any class or series except such restrictions as are authorized by its instrument of incorporation and this Act.

Investment
securities
1982, c. 4

57. Part VI of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Insider
liability

58. Part X of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Definition

59.—(1) For the purposes of this section and sections 60 and 61, "non-resident" means,

- (a) an individual who is not a resident Canadian;
- (b) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada;

- (c) a body corporate that is controlled directly or indirectly by non-residents as defined in clause (a) or (b);
- (d) a trust established by a non-resident as defined in clause (a), (b) or (c) or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest; or
- (e) a body corporate that is controlled directly or indirectly by a trust mentioned in clause (d).

(2) For the purposes of this section and sections 60 and 61, a shareholder shall be deemed to be associated with another shareholder if, Associated shareholder

- (a) one shareholder is a body corporate of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

(3) For the purposes of this section and sections 60 and 61, where a voting share of a provincial corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident. Shares held jointly

(4) For the purposes of this section and sections 60 and 61, a body corporate shall be deemed to be controlled by another person or body corporate or by two or more bodies corporate if voting securities of the first-mentioned body corporate carrying more than 10 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or body corporate or by or for the benefit of the other bodies corporate. Deemed control

Limit on
shares held
by
non-resident

60.—(1) The directors of a provincial corporation shall refuse to allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident,

- (a) if, when the total number of voting shares of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by non-residents;
- (b) if, when the total number of voting shares of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding voting shares, the entry of the transfer would cause the total number of such shares held by non-residents to exceed 25 per cent of the total number of issued and outstanding voting shares;
- (c) if, when the total number of the voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, exceeds 10 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with the non-resident; or
- (d) if, when the total number of voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares held by the non-resident and by other shareholders associated with the non-resident, if any, to exceed 10 per cent of the issued and outstanding voting shares.

Exception

(2) Notwithstanding subsection (1), the directors of a provincial corporation may allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, immediately before the 17th day of June, 1970, held in the right of or for the use or benefit of the non-resident.

Allotment to
non-resident

(3) The directors of a provincial corporation shall not allot, or allow the allotment of any voting shares of the corporation

to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the securities register would be required, under subsection (1), to be refused by the directors.

(4) Default in complying with this section does not affect the validity of a transfer or allotment of voting shares of the provincial corporation that has been entered into the securities register of the corporation, but every director or officer who knowingly authorizes or permits such default is guilty of an offence.

Offence

61.—(1) Non-residents shall not exercise the voting rights attached to shares of a provincial corporation unless entered in the securities register of the corporation as a shareholder in respect of the shares.

Voting by
non-residents

(2) Where a person that is a resident Canadian or a body corporate that is resident in Canada holds voting shares of a provincial corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the securities register of the corporation as the holder, the person shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Voting rights
of nominees
suspended

(3) Where a person that is a resident Canadian or a body corporate that is resident in Canada becomes a non-resident while entered in the securities register of a provincial corporation as a shareholder and the number of voting shares of such person recorded in the securities register when added to those entered therein as owned by other non-residents exceed the limit set out in section 60, the person shall not exercise, directly, by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 60.

Change of
status while
entered on
books

(4) Notwithstanding subsections (1), (2) and (3), where any voting shares of a provincial corporation are held in the name of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the securities register of the corporation before the 17th day of June, 1970 or is entered in the securities register under subsection 60 (2), no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held by the non-resident or in the non-resident's right or for the non-resident's use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

Voting rights
of single
non-resident
owner

- (a) any shareholders associated with the non-resident;
or
- (b) any persons who would, be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding voting shares of such shares.

Offence

(5) Every person who knowingly contravenes this section is guilty of an offence.

Effect of
contravention

(6) No proceeding, matter or thing at a general meeting of a provincial corporation is void by reason only of a contravention of this section, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a resolution passed at a special general meeting of the corporation.

Deemed
holding
body
corporate

62. For the purposes of sections 63 and 64, a company, individual or trust that, by itself or with any company, individual or trust related to it, if any, that holds or controls 10 per cent or more of the total number of issued and outstanding shares of a class of voting shares of a corporation shall be deemed to be a holding body corporate and the shares and the issue or transfer of shares of the holding body corporate shall be deemed to be shares or a transfer or issue of shares to which the said sections 63 and 64 apply.

Consent of
Superin-
tendent

63.—(1) No transfer or issue of voting shares of a provincial corporation shall be entered in its securities register until the consent of the Superintendent has been received by the corporation, if,

- (a) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders related to the person, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person; or
- (b) when the total number of shares of a class of voting shares of the provincial corporation held by a person and by other shareholders related to the person, if any, is 10 per cent or less of the total number of issued and outstanding shares of that class, the

transfer or issue would cause the total number of shares of that class held by such person and by other shareholders related to the person, if any, to exceed 10 per cent of the issued and outstanding shares of that class.

and until the consent of the Superintendent is received by the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any of the voting shares that are held by or in the name of the shareholder or by or in the name of any person related to the shareholder.

(2) A person to whom shares are to be transferred or issued in circumstances that require the consent of the Superintendent may apply for the consent and, for the purposes of the application, the person shall provide the Superintendent with such information as the Superintendent may request.

Application
to
Superin-
tendent

(3) On an application under subsection (2), the Superintendent may refuse consent where, in his or her opinion, it would be in the public interest to do so and, without limiting the generality of the foregoing, the Superintendent may refuse consent where the shareholder or any person related to the shareholder,

Refusal of
consent

- (a) is or has been bankrupt;
- (b) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act*;
- (c) is or has been subject to a cease trading order under the *Securities Act*;
- (d) is subject to an examination under section 184 or an investigation under section 204;
- (e) is contravening any provision of this Act or the regulations or of any comparable legislation of another jurisdiction or of any undertaking given to the Superintendent; or
- (f) has failed to provide the information requested under subsection (2).

R.S.O. 1980,
c. 466

(4) The consent of the Superintendent under this section takes effect on the date set out in the consent and the effective date may be a date before the date the consent is given.

Effective
date of
consent

Declaration
may be
required

64. The Superintendent may, from time to time, in writing, direct a provincial corporation to obtain from any person in whose name a share of the corporation is held or beneficially owned a declaration containing information,

- (a) concerning the ownership or beneficial ownership of such share;
- (b) as to whether such share is held or beneficially owned by a person who is related to any other person and the name of that other person where applicable;
- (c) concerning the ownership or beneficial ownership of the shares of a holding company; and
- (d) concerning such other matters as are specified by the Superintendent,

and as soon as possible after the receipt of a direction from the Superintendent under this section, the directors of the corporation shall comply therewith and every person who is requested by the corporation to provide a declaration in the prescribed form containing information referred to in this subsection shall forthwith comply with the request by submitting the completed declaration to the Superintendent.

Hearing

65.—(1) Where the Superintendent proposes to refuse consent under section 63, he or she shall forthwith advise the applicant and shall give the applicant an opportunity to be heard before him or her.

Power of
L.G. in C.

(2) Upon the petition of the applicant, filed with the Clerk of the Executive Council within twenty-eight days after the date of the decision of the Superintendent under subsection (1), the Lieutenant Governor in Council may,

- (a) confirm, vary or rescind the whole or any part of such decision; or
- (b) require the Superintendent to hold a new public hearing of the whole or any part of the application to the Superintendent upon which such decision of the Superintendent was made,

and the decision of the Superintendent after the public hearing under clause (b) is not subject to petition under this section.

(3) Except as provided in subsection (2), a decision of the Superintendent under this section is final and binding and no such decision or decision as confirmed or varied under subsection (2) shall be stayed, varied or set aside by any court.

Decision
final

66. The Superintendent, with the approval of the Lieutenant Governor in Council, may by order exempt any corporation or other person from the application of sections 63 to 65, in whole or in part, on such terms and conditions as are set out in the order and where any such order is filed with the corporation named in the order, it shall be deemed to be a consent of the Superintendent for the purpose of section 63, so long as the terms and conditions of the order have been complied with.

Exemption

67.—(1) No transfer of shares of a provincial corporation, unless made by a sale under execution or under the order or judgment of a court of competent jurisdiction, is valid for any purpose until the transfer has been entered in the securities register of the corporation.

Transfer
valid only
after entry

(2) Notwithstanding subsection (1), a transfer of shares that has not been entered in the securities register of a provincial corporation is valid for the purpose of showing the rights as between the parties to the transfer.

Exceptions

68.—(1) The directors of a provincial corporation may make by-laws,

By-laws

(a) requiring any person holding any voting share of the corporation to submit written declarations,

(i) with respect to the ownership of a share of the corporation or of the holding body corporate,

(ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,

(iii) as to whether the shareholder is associated with or related to any other shareholder, and

(iv) with respect to such other matters as the directors consider relevant for the purposes of sections 60 to 67;

(b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted; and

- (c) requiring any person desiring to have a transfer of a share to the person entered in the securities register of the corporation to submit such a declaration as may be required under this section in the case of a shareholder.

Where
declaration
pending

(2) Where by or under any by-law made under subsection (1), any declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may prohibit the entry of the transfer in the securities register of the corporation until the required declaration has been submitted.

Liability of
directors

69. In determining, for the purposes of whether a person is a resident Canadian, body corporate resident in Canada or a non-resident, by whom a body corporate is controlled or any other circumstances relevant to the performance of their duties under sections 60 to 67, the directors of the provincial corporation and any other person acting as proxy for a shareholder of the provincial corporation may rely upon any statement made in any declarations made pursuant to a by-law made under subsection 68 (1) or rely upon their own knowledge of the circumstances, and the directors and any such person are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge.

Shareholders
liability
limited

70. Except as otherwise provided in this Act, the shareholders of a provincial corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation.

Place of
meetings

71. Subject to the by-laws, a meeting of shareholders of a provincial corporation shall be held at such place in Canada as the directors determine or, in the absence of such a determination, at its principal place of business.

Shareholders
meeting

72. The directors of a provincial corporation,

- (a) shall call an annual meeting of shareholders not later than three months after the corporation comes into existence and subsequently not later than three months after each fiscal year end of the corporation; and
- (b) may call a special meeting of shareholders at any time.

Record date

73.—(1) For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held. Idem

(3) Where no record date is fixed, Where no
date fixed

(a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,

(i) at the close of business on the day immediately preceding the day on which the notice is given, or

(ii) if no notice is given, the day on which the meeting is held; and

(b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution therefor.

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register of the corporation at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed. Notice of
date

(a) by advertisement in a newspaper published or distributed in the place where the provincial corporation has its principal place of business and in each

place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and

- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading.

Notice

74.—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of a provincial corporation that is an offering corporation, not less than twenty-one days and, in the case of any other provincial corporation, not less than ten days, but, in either case, not more than fifty days before the meeting to each shareholder entitled to vote at the meeting, to each director and to the auditor.

Idem

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the securities register of the provincial corporation on the date determined under subsection 73 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

Adjournment

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

Idem

(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, section 111 of the *Business Corporations Act, 1982*, as incorporated into this Act under section 86, does not apply.

1982, c. 4

Special
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and

- (b) the text of any special resolution or by-law to be submitted to the meeting.

75. Subject to this Act and the by-laws of a provincial corporation, Shareholders meeting

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to subsections 74 (3) and (4) and to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place; and
- (c) the president or, in the president's absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman.

76. A shareholder and any other person entitled to attend a meeting of shareholders of a provincial corporation may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where the shareholder attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Waiving notice

77.—(1) A shareholder of a provincial corporation entitled to vote at a meeting of shareholders may, Proposal

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which the shareholder would have been entitled to submit a proposal.

(2) Where a provincial corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 of the *Business Corporations Act*, 1982, as incor- Circulating proposal
1982, c. 4

porated into this Act under section 86, or it shall attach the proposal to the information circular.

Statement in
support of
proposal

(3) If so requested by a shareholder giving notice of a proposal, the provincial corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder.

Proposal may
include
nominations

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders.

Where subss.
(2, 3) do
not apply

(5) A provincial corporation is not required to comply with subsections (2) and (3) where,

- (a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;
- (c) the corporation, at the shareholder's request, included a proposal in a management information circular relating to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or
- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years pre-

ceding the receipt of the shareholder's request and the proposal was defeated.

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section. Where no liability

(7) Where a provincial corporation refuses to include a proposal in a management information circular, it shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to the shareholder a statement of reasons for the refusal. Where refusal to circulate proposal

(8) Upon the application of a shareholder aggrieved by a provincial corporation's refusal under subsection (7), the High Court of Justice may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit. Application to Court

(9) The provincial corporation or any person aggrieved by a proposal may apply to the High Court of Justice for an order permitting the provincial corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit. Idem

(10) An applicant under subsection (8) or (9) shall give the Superintendent notice of the application and the Superintendent is entitled to appear and be heard in person or by counsel. Notice to Superintendent

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders. Definition

78.—(1) A provincial corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared, Lists of shareholders

(a) if a record date is fixed under subsection 73 (2), not later than ten days after such record date; or

(b) if no record date is fixed,

(i) at the close of business on the day immediately preceding the day on which notice is given, or

- (ii) where no notice is given, on the day on which the meeting is held.

Entitlement
to vote

(2) Where a provincial corporation fixes a record date under subsection 73 (2), a person named in the list prepared under clause (1) (a), subject to sections 59 to 67, is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the record date; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Idem

(3) Where a provincial corporation does not fix a record date under subsection 73 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the date on which the list prepared under clause (1) (b) was prepared; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

(4) A shareholder of a provincial corporation may examine the list of shareholders, Examination of list

(a) during usual business hours at the principal place of business of the corporation or at the place where its securities register is maintained; and

(b) at the meeting of shareholders for which the list was prepared.

79.—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum. Quorum

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting. Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business. Idem

80.—(1) Each common share of a provincial corporation entitles the holder thereof to one vote at all meetings of shareholders. Voting rights

(2) Unless the instrument of incorporation otherwise provides, shares of a provincial corporation that are not common shares entitle the holder thereof to one vote at all meetings of shareholders. Idem

(3) Where a body corporate or association is a shareholder of a provincial corporation, the provincial corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the provincial corporation. Representative

(4) An individual authorized as set out in subsection (3) may exercise on behalf of the body corporate or association he or she represents all the powers it could exercise if it were an individual shareholder. Idem

Joint
shareholders

(5) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them.

Method of
voting

81.—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.

Idem

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.

Entry in
minutes

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

Effect of
signed
resolutions

82.—(1) Except where a written statement is submitted by a director under subsection 96 (2) or where representations in writing are submitted by an auditor under subsection 112 (6),

(a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders, is as valid as if it had been passed at a meeting of the shareholders; and

(b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

Copy of
resolution
kept with
minutes

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meeting of shareholders.

Requisition
for
shareholders
meeting

83.—(1) On notice to the Superintendent, the holders of not less than 5 per cent of the issued shares of a provincial corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.

Idem

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the principal place of business of the corporation.

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless.

Duty of directors to call meeting

- (a) a record date has been fixed under subsection 73 (2) and notice thereof has been given under subsection 73 (4);
- (b) the directors have called a meeting of shareholders and have given notice thereof under section 74; or
- (c) the business of the meeting as stated in the requisition includes matters described in clauses 77 (5) (b), (c) and (d).

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call a meeting.

Where requisitioner may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws and this Part.

Calling of meeting

(6) The provincial corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally.

Repayment of expenses

84.—(1) If for any reason it is impracticable to call a meeting of shareholders of a provincial corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws and this Act, or if for any other reason the High Court of Justice thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court considers appropriate.

Requisition to Court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

Idem

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the provincial corporation duly called, held and conducted.

Effect of meeting

Notice to
Superin-
tendent

(4) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Application
to court re:
directors and
auditors

85.—(1) A shareholder or director of a provincial corporation or the corporation, may apply to the High Court of Justice to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Notice to
Superin-
tendent

(2) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Notice of
orders

(3) Upon an application under this section, the court may make any order it considers appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares.

Proxies
1982, c. 4

86. Part VIII of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

PART VI

DIRECTORS AND OFFICERS

Directors'
duties

87. The directors shall manage or supervise the management of the business and affairs of a provincial corporation.

88.—(1) The concurrence of a majority of the directors present at a meeting of the directors is necessary to pass any resolution.

Resolutions

(2) Unless the instrument of incorporation, this Act or the by-laws otherwise provide, the directors, by resolution, may make, amend or repeal any by-laws that regulate the business or affairs of a provincial corporation.

By-law by resolution

(3) Where a by-law is made, amended or repealed under subsection (2), the directors shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders shall confirm, reject or amend the by-law, amendment or repeal.

Confirmation by shareholders

(4) Where a by-law is made, amended or repealed under subsection (2), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (3) or until it ceases to be effective under subsection (5) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

Effective date

(5) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (3), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

Rejection, etc.

(6) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 77 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

By-law re shareholder proposal

(7) A by-law need not be described as a by-law in a resolution referred to in this section.

By-law need not be so described

89.—(1) A provincial corporation shall have at least five directors.

Board of directors

(2) At least one third of the directors of a provincial corporation shall be outside directors.

Outside directors

Idem

(3) For the purposes of this Part, an individual is eligible to be an outside director only if,

- (a) the individual does not hold more than 10 per cent of the voting shares of the corporation or of any of its affiliates;
- (b) the individual is not an officer or employee of the corporation or any of its affiliates and has not been an officer or employee of the corporation or any of its affiliates within two years of the date of his or her becoming a director;
- (c) the individual is not a spouse or child of an individual described in clause (a) or (b); and
- (d) the individual is not a relative of an individual described in clause (a) or (b) or a relative of a spouse of an individual described in clause (a) or (b) or if the individual is such a relative, he or she does not have the same home as an individual described in clause (a) or (b) or as a spouse of an individual described in clause (a) or (b).

Citizenship

(4) The majority of directors of a provincial corporation shall be resident Canadian citizens.

Change in
number of
directors

(5) A provincial corporation may by special resolution increase or decrease the number of its directors but no decrease in the number of directors shall shorten the term of an incumbent director or reduce the number of directors to fewer than five.

Director
disqualifi-
cation

90. The following persons are disqualified from being a director of a provincial corporation:

- 1. A person who is not an individual.
- 2. An individual who is less than eighteen years of age.
- 3. An individual who is of unsound mind and who has been so found by a court in Canada or elsewhere.
- 4. An individual who has the status of bankrupt.
- 5. An individual who is a director of a corporation not affiliated with the corporation of which the individual wishes to become a director.

91. Unless the instrument of incorporation or the by-laws otherwise provide, a director of a provincial corporation is not required to hold shares issued by the corporation.

Holding
shares

92.—(1) Each director named in the instrument of incorporation of a provincial corporation shall hold office from the date of issue of the instrument until the first meeting of shareholders following the issue of the instrument.

Directors
named
in instrument
of
incorporation

(2) The shareholders of a provincial corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting, directors to hold office for a term expiring not later than the close of the next annual meeting of shareholders following the election.

Election

(3) A director ceases to hold office at the close of the first annual meeting of shareholders following the director's election.

Term of a
director

(4) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders, the incumbent directors continue in office until their successors are elected.

Idem

(5) If a meeting of shareholders fails to elect the number of directors required by the by-laws or by subsection 89 (1) by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the provincial corporation pending the holding of a meeting of shareholders in accordance with subsection 97 (2).

Failure to
elect

(6) Upon the election of a director, notice of such election shall be given to the Superintendent in the prescribed form.

Notice to
Superin-
tendent

93. Where the by-laws provide for cumulative voting,

Cumulative
voting

(a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;

(b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;

- (c) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed the votes equally among the candidates;
- (d) if the number of candidates nominated for director exceed the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) a director may not be removed from office if the votes cast against removal would be sufficient for election as a director and such votes could be voted cumulatively at an election at which the same total number of directors required by the by-laws were then being elected; and
- (f) the number of directors required by the by-laws may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were then being elected.

When
director
ceases to
hold
office

94.—(1) A director of a provincial corporation ceases to hold office upon,

- (a) death or resignation;
- (b) removal under section 95; or
- (c) becoming disqualified under section 90.

Resignation

(2) A resignation of a director becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

Notice to
Superin-
tendent

(3) Upon receipt of the resignation of a director, the provincial corporation shall deliver notice to the Superintendent of the resignation together with a copy of any statement made under subsection 96 (2) or (3).

Removal of
directors

95.—(1) Subject to clause 93 (e), the shareholders of a provincial corporation may by resolution at an annual or special meeting remove any director from office.

(2) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by resolution at a meeting of the shareholders of that class or series. Idem

(3) Subject to clauses 93 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 97. Idem

96.—(1) A director of a provincial corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders. Notice to director

(2) A director of a provincial corporation who, Reasons for resignation

(a) resigns;

(b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him or her from office; or

(c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because the director's term of office has expired or is about to expire,

may submit to the corporation a written statement giving the reasons for the resignation or the reasons, if any, why he or she opposes any proposed action or resolution, as the case may be.

(3) Where a director of a provincial corporation resigns because he or she disagrees with an action or omission of the board of directors or of the management of the corporation and, Idem

(a) the director knows or believes that as a result of the action or omission the corporation or any shareholder, director, officer or employee of the corporation is or will be in contravention of this Act, the *Securities Act* or the *Criminal Code* (Canada) or legislation of another jurisdiction that is comparable to this Act or the *Securities Act*; or

R.S.O. 1980,
c. 466

R.S.C. 1970,
c. C-34

(b) the director knows or believes that as a result of the action or omission there has been or will be a change in the circumstances of the corporation that

might materially and adversely affect the financial position of the corporation,

the director shall submit to the corporation a written statement giving the reasons for the resignation.

Distribution
of statement

(4) Upon receiving a statement under subsection (2), the corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders unless the statement is included in or attached to a management information circular.

No liability

(5) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (4).

Idem

(6) A person who in good faith makes a statement under subsection (3) shall not be liable in any civil action arising out of the statement.

Notice to
Superin-
tendent

(7) A director who resigns as director of a provincial corporation shall forthwith give notice to the Superintendent of the resignation and a copy of any written statement given under this section.

Vacancies

97.—(1) Subject to subsections (3) and (4), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from,

- (a) an increase in the number of directors; or
- (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.

Election to
make
quorum

(2) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the by-laws or by subsection 89 (1), the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder.

Election by
class of
shareholders

(3) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (4), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a

failure to elect the number of directors for that class or series; or

- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

(4) The by-laws may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series.

No quorum

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor.

Term

98.—(1) The election or appointment of a person to the board of directors of a provincial corporation does not take effect until the corporation has satisfied the Superintendent that the person is fit, both as to character and competence, to be a director of a corporation and the Superintendent has approved the election or appointment of the person as a director.

Director's fitness

(2) The Superintendent may require a corporation to provide such information, material and evidence as the Superintendent may consider necessary to decide the fitness of a person to be a director.

Information

(3) If the Superintendent does not notify a corporation, within thirty days of being asked to approve the appointment or election of a proposed director, that he or she is satisfied that the proposed director is fit to be a director or give notice of the time and place of a hearing on the matter, he or she shall be deemed to be satisfied as to the person's fitness to be a director.

Deemed approval

(4) Subsections (1) to (3) do not apply.

Non-application

- (a) to a person who on the day this section comes into force is a director of a corporation so long as he or she remains a director of the corporation; or
- (b) to a person who has been approved under this section so long as he or she remains a director of the corporation.

99.—(1) Where the by-laws of a provincial corporation so provide, a meeting of its board of directors may be held at

Place of meetings

any place within Canada and otherwise shall be held at its principal place of business.

Minimum
number
of meetings

(2) The board of directors shall meet at least five times in each year.

Quorum

(3) Subject to the by-laws and subsection (4), a majority of the number of directors required by the by-laws constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors, of which one must be an outside director.

Idem

(4) Subject to the instrument of incorporation or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Calling
meeting of
directors

(5) In addition to any other provision in the by-laws of a provincial corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(6) Subject to the by-laws of the provincial corporation, notice of the time and place for the holding of the meeting called under subsection (5) shall be given to each director of the corporation by sending the notice ten days or more before the date of the meeting to the last address of the director as shown on the records of the corporation.

Waiver of
notice

(7) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

Adjourned
meeting

(8) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

Meeting by
telephone,
etc.

(9) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting.

(10) If a majority of the directors participating in a meeting held under subsection (9) is then in Canada, the meeting shall be deemed to have been held in Canada.

Place of
meeting by
telephone

100.—(1) The shareholders of a provincial corporation, by special resolution and subject to subsection (2), may authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be appointed by the directors from their number and at least one member of the executive committee shall be an outside director.

Executive
committee

(2) No executive committee has authority to,

Limitations
on authority

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove the chief operating officer, however designated, the chief executive officer, however designated, the chief financial officer, however designated, the chairman of the board or the president of the corporation;
- (c) issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 53;
- (g) approve a management information circular;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular or any amendment to any such circular referred to in Part XIX of the *Securities Act*;
- (i) approve any financial statements under subsection 119 (1);
- (j) adopt, amend or repeal by-laws;
- (k) approve any item requiring approval of the board of directors under Part IX; or
- (l) approve prudent lending standards under section 152.

R.S.O. 1980,
c. 466

Further
limitation

(3) No business shall be transacted by an executive committee unless at least one outside director is present at the meeting.

Chairman

101.—(1) The directors of a provincial corporation shall from time to time elect from among themselves a person, other than the chief executive officer, however designated, of the corporation, to be the chairman of the board.

Other
officers

(2) The directors may designate the offices of the corporation and may appoint officers to those offices and specify their duties.

Qualifications

(3) Where the regulations prescribe qualifications for appointment as an officer, the directors shall not appoint a person who does not have those qualifications.

Audit and
investment
committees

102.—(1) The directors of a provincial corporation shall appoint from their number an audit committee and an investment committee which committees shall fulfil such duties as are required by this Act and as are prescribed by the regulations.

Idem

(2) Each committee appointed under subsection (1) shall consist of at least three members and a majority of the members shall be outside directors.

Acts not
invalid

103. An act done by the board of directors or by an officer is not invalid by reason only of any defect that is thereafter discovered in the appointment, election or qualification of any of the directors or of the officer.

Resolutions

104.—(1) A resolution, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors.

Idem

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors.

Liability

105.—(1) Directors of a provincial corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution.

(2) Directors of a provincial corporation who vote for or consent to a resolution authorizing, Idem

- (a) any investment or transaction contrary to Part IX;
- (b) a purchase, redemption or other acquisition of shares contrary to section 47 or 48;
- (c) a reduction in the stated capital of the corporation contrary to section 50;
- (d) a commission contrary to section 53;
- (e) a payment of a dividend contrary to section 54;
- (f) a payment of an indemnity contrary to section 109;
- (g) a payment to a shareholder contrary to an order under section 209; or
- (h) any other payment to a shareholder, director or officer the effect of which is to reduce the capital base of the corporation to an amount that is less than that required under this Act,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by it.

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. Joint liability

(4) A director liable under this section is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX, section 47, 48, 50, 53, 54 or 109 or an order made under section 209. Application to Court

(5) In connection with an application under subsection (4), the court may, if it is satisfied that it is equitable to do so, Idem

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX or section 47, 48, 50, 53, 54 or 109 or an order made under section 209;

(b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or

(c) make any further order it thinks fit.

Liability
for wages

R.S.O. 1980,
c. 137

106.—(1) The directors of a provincial corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the provincial corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder or under any collective agreement made by the provincial corporation.

Limitation

(2) A director is liable under subsection (1) only if,

(a) the director is sued while a director or within six months after ceasing to be a director; and

(b) the action against the director is commenced within six months after the debt became payable, and

(i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or

(ii) before or after the action is commenced the corporation is deemed insolvent and is ordered to be wound up under the *Winding Up Act* (Canada) or is unable to pay its debts and is ordered to be wound up under the *Winding Up Act* (Canada) and the claim for debts is proved.

R.S.C. 1970,
c. W-10

Idem

(3) Where execution referred to in clause (2) (b) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Rights of
director who
pays debt

(4) Where a director pays a debt under subsection (1), the director is entitled to any preference that the employee would have been entitled to under the *Winding Up Act* (Canada), and, where a judgment has been obtained, the director is entitled to an assignment of the judgment.

Contribution

(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

107.—(1) For the purpose of this section, a director or officer includes a person acting in a capacity similar to, or performing functions of, a director or officer. Deemed director

(2) Every director and officer of a provincial corporation in exercising his or her powers and in discharging his or her duties, Standard of care

(a) shall act honestly and in good faith with a view to the best interests of the corporation as a whole; and

(b) shall exercise the care, diligence and skill of a reasonably prudent director or officer, as the case may be, under comparable circumstances.

(3) In considering whether a particular transaction or course of action is in the best interests of the provincial corporation as a whole, a director or officer shall have due regard to the interests of the depositors, as well as the shareholders of the corporation and, in the case of a trust corporation, shall also have due regard to the interests of the persons for whom it acts in a fiduciary capacity. Idem

(4) Every director and officer of a provincial corporation shall comply with this Act and the regulations and the corporation's instrument of incorporation and by-laws. Duty to comply with Act

(5) No provision in a contract, the instrument of incorporation or the by-laws or a resolution relieves a director or officer of a provincial corporation from the duty to act in accordance with this Act and the regulations or relieves the director or officer from liability for a breach thereof. Cannot contract out of liability

108.—(1) A director who is present at a meeting of directors or committee of directors shall be deemed to have consented to any resolution passed or action taken thereat unless, Consent of director at meeting

(a) the director's dissent is entered in the minutes of the meeting;

(b) the director requests that a dissent be entered in the minutes of the meeting;

(c) the director sends a written dissent to the secretary of the meeting before the meeting is terminated; or

(d) the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented thereto unless within seven days after becoming aware of the resolution the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting.

Indemnification

109.—(1) A provincial corporation may indemnify a person who is a director or officer of the corporation or a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor or for which the corporation acted in a fiduciary capacity, and the person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by or on behalf of the person in respect of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of such corporation or body corporate if,

- (a) the person acted honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the conduct was lawful.

Idem

(2) A corporation may, with the approval of the High Court of Justice, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which the person is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and expenses reasonably incurred by or on behalf of the person in connection with such action if the person fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the person in connection with the defence of any civil, criminal or administrative action or proceeding to

which the person is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

- (a) was substantially successful on the merits in the defence of the action or proceeding; and
- (b) fulfils the conditions set out in clauses (1) (a) and (b).

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by the person in the person's capacity as a director or officer of the corporation, except where the liability relates to a failure to act honestly and in good faith with a view to the best interests of the corporation as a whole.

Liability
insurance

(5) A corporation or a person referred to in subsection (1) may on notice to the Superintendent apply to the High Court of Justice for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Application
to Court

(6) Upon an application under subsection (5), the court may order that notice be given to any interested person and such person is entitled to appear and be heard in person or by counsel.

Idem

110. The shareholders of a provincial corporation shall fix the remuneration of the directors.

Remuneration
of directors

111.—(1) Each provincial corporation shall keep a record of the total number of meetings of the directors and of the audit and investment committees and the number of such meetings attended by each director.

Attendance
records

(2) A summary of the record kept under subsection (1) shall be sent to each shareholder and to the Superintendent with the notice of the annual meeting and shall be available on request to any depositor of the corporation.

Idem

PART VII

AUDITORS AND FINANCIAL STATEMENTS

112.—(1) The shareholders of a provincial corporation at their first annual or special meeting shall appoint an auditor to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment.

Auditors

Idem

(2) The shareholders of every provincial corporation shall at each annual meeting appoint an auditor to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of
auditor

(4) Except where the auditor has been appointed under subsection (8), the shareholders of a provincial corporation, by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, may remove an auditor before the expiration of the auditor's term of office, and shall, by a majority of the votes cast at that meeting, appoint another auditor for the remainder of the removed auditor's term.

Notice

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right to
make
representations

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning,

- (a) his or her proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his or her resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

Remuneration

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors

if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

(8) If a provincial corporation does not have an auditor, the High Court of Justice, upon the application of a director, a shareholder or the Superintendent, may appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders. Appointment by Court

(9) A provincial corporation, forthwith after the appointment of a person as auditor, shall give written notice of the appointment to the person and to the Superintendent. Notice of appointment

(10) Where a provincial corporation has a vacancy in the office of auditor, it shall give notice of the vacancy forthwith to the Superintendent. Notice of vacancy

113.—(1) The auditor of a provincial corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, may attend and be heard thereat on matters relating to his or her duties as auditor. Right to attend shareholder meetings

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, at least five days before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting, at the expense of the corporation, and answer questions relating to his or her duties as auditor. Attend upon request

(3) An auditor is not required to comply with subsection (2) where it clearly appears that the request under subsection (2) is made primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the duties of the auditor. Idem

(4) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation. Idem

(5) No person shall accept appointment or consent to be appointed as auditor of a provincial corporation if the person is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until the person has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, he or she is to be replaced. Replacement auditor

Idem

(6) Notwithstanding subsection (5), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, the person does not receive a reply.

Idem

(7) A person receiving a statement under subsection (5) shall promptly deliver a copy of the statement to the Superintendent and if no statement is received from the auditor being replaced within fifteen days after the request referred to in subsection (5), the person requesting the statement shall promptly give notice to the Superintendent of this fact.

Idem

(8) Any interested person may apply to the High Court of Justice for an order declaring the office of auditor of a provincial corporation to be vacant if the auditor has not complied with subsection (5), unless subsection (6) applies with respect to the appointment of the auditor.

No liability

114. An auditor or former auditor who in good faith makes an oral or written statement or report under this Act shall not be liable in any civil action arising therefrom.

Disqualifi-
cation

115.—(1) A person is disqualified from being an auditor of a provincial corporation if the person is not an accountant and if the person is not independent of,

- (a) the corporation and its affiliates; and
- (b) the directors and officers of the corporation and its affiliates.

Idem

(2) For the purposes of this section,

- (a) independence is a question of fact; and
- (b) a person shall be deemed not to be independent if the person or the person's business partner, spouse or child,
 - (i) is a business partner, director, officer or employee of the corporation or any of its affiliates,
 - (ii) is a business partner of any director, officer or employee of the corporation or any of its affiliates,
 - (iii) beneficially owns directly or indirectly or exercises control or direction over 10 per cent

or more of the voting shares of the corporation or any of its affiliates, or

- (iv) has been a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy of the corporation or any of its affiliates within two years of the person's proposed appointment as auditor of the corporation.

(3) No person shall be disqualified from acting as the auditor of a provincial corporation solely on the grounds that the person is a depositor in the corporation. Saving

(4) An auditor who becomes disqualified under this section shall resign forthwith upon becoming aware of the disqualification. Resignation

(5) An interested person may apply to the High Court of Justice for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant. Application to Court

116. A provincial corporation shall, where possible, cause its auditor or one of its auditors to be appointed auditor of any body corporate in which the corporation has invested its funds under section 167, and where such appointment is not possible, the provincial corporation shall inform the Superintendent of the circumstances that prevent the appointment. Auditor appointment for subsidiary

117.—(1) An auditor of a provincial corporation shall make such examination of the financial statements required by this Act and the regulations to be placed before shareholders and of the annual return to be filed with the Superintendent under section 134 as is necessary to enable the auditor to report thereon and the auditor shall report as prescribed and in accordance with generally accepted auditing standards. Examination

(2) A director or an officer of a provincial corporation shall forthwith notify the audit committee and the auditor or the former auditor, if applicable, of any error or misstatement of which the director or officer becomes aware in a financial statement or annual return filed with the Superintendent that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be material. Reporting error

(3) If an auditor or former auditor of a provincial corporation is notified or becomes aware of an error or misstatement in a financial statement or return filed with the Superintendent upon which the auditor or former auditor has reported, and if in the opinion of the auditor or former auditor the error Idem

or misstatement is material, the auditor or former auditor shall inform each director.

Revised
financial
statements

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall promptly prepare and issue revised financial statements or otherwise inform the shareholders.

Notice to
Superin-
tendent

(5) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a return filed with the Superintendent, the directors shall promptly notify the Superintendent.

Right of
access

(6) Upon the demand of an auditor of a provincial corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such,

- (a) information and explanations; and
- (b) access to records, documents, books, accounts and vouchers of the corporation and any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

Idem

(7) Upon the demand of the auditor of a provincial corporation, the directors of the corporation shall,

- (a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section; and
- (b) furnish the information and explanations so obtained to the auditor.

No liability

(8) A person who in good faith makes an oral or written communication under this section shall not be liable in any civil action arising therefrom.

118.—(1) The auditor shall report to the board of directors of the provincial corporation whenever, in the auditor's opinion, Reports to board

- (a) there has been any change in the circumstances of the corporation that might materially and adversely affect the financial position of the corporation;
- (b) there has been a contravention of this Act or the regulations;
- (c) there has been a contravention of the *Criminal Code* (Canada); or R.S.C. 1970, c. C-34
- (d) there has been a contravention of any other law the contravention of which may affect the corporation's ability to carry on or transact business.

(2) The auditor shall make a report under subsection (1) immediately upon becoming aware of a change or contravention described in that subsection. Idem

(3) The auditor shall report to the Superintendent any matter dealt with in a report under subsection (1) which in the opinion of the auditor could affect the well-being of the provincial corporation and has not been corrected or appropriately responded to by the board of directors within a reasonable time. Notice to Superintendent

(4) An auditor is not required to make a report under this section unless the auditor becomes aware of the change or contravention described in subsection (1) in the ordinary course of his or her duties as auditor. Exception

119.—(1) The directors of a provincial corporation shall place before each annual meeting of shareholders. Financial statements, etc., to be given to shareholders

- (a) financial statements in consolidated form for the year ending on the last day of October, November or December and before the annual meeting, made up of,
 - (i) a statement of income for the year,
 - (ii) a statement of retained earnings, or surplus for the year,
 - (iii) a statement of change in financial position, and

(iv) a balance sheet as at the end of the year,

and, if the corporation has completed a financial year, showing in each case the corresponding figures for the last preceding financial period of the corporation;

- (b) the report of the auditor to the shareholders on the statements referred to in clause (a);
- (c) the financial statement of the corporation in unconsolidated form;
- (d) the financial statement in consolidated form of every subsidiary of the corporation, and such statements may be presented in condensed form; and
- (e) any further information respecting the financial position of the corporation and the results of its operations required by its instrument of incorporation or its by-laws or by this Act or the regulations.

Copy of
documents to
shareholders

(2) A provincial corporation, not less than twenty-one days before each annual meeting of shareholders unless such period is waived by the shareholders, shall send a copy of the documents referred to in this section to each shareholder, except those who have informed the corporation in writing that they do not wish to receive copies of the documents.

Copy of
documents to
depositors

(3) A provincial corporation shall mail or deliver without charge a copy of the documents referred to in this section to every depositor of the corporation who in writing requests a copy.

Preparation
of financial
statements

120. The financial statements required under this Act shall be prepared in accordance with this Act and the regulations and, except as otherwise required by this Act and the regulations, in accordance with generally accepted accounting principles.

Audit
committee

121.—(1) The audit committee of a provincial corporation shall meet at least twice each year to review,

- (a) any financial statements distributed to the shareholders;
- (b) the annual returns of the corporation filed with the Superintendent under section 134;

(c) all reports of the auditor under section 118; and

(d) any reports or transactions required by the regulations to be reviewed by the audit committee.

(2) In the case of statements and returns that by or under this Act must be approved by the board of directors of a provincial corporation, the audit committee shall report thereon to the board before the approval is given. Idem

(3) The auditor of a provincial corporation shall attend the meetings of the audit committee and the auditor is entitled to be heard at the meetings. Auditor's attendance

(4) The auditor of a corporation, a member of the audit committee or a director may call a meeting of the audit committee at any time. Calling meeting

(5) The auditor of a provincial corporation is entitled to attend and be heard at meetings of the board of directors on matters relating to his or her duties as auditor. Attendance at meetings of board of directors

122.—(1) The financial statements of a provincial corporation shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statements. Approval by directors

(2) One of the directors signing a balance sheet as required by subsection (1) must be a member of the audit committee. Idem

(3) A provincial corporation shall not issue, publish or circulate copies of the financial statements of the provincial corporation referred to in section 119 unless the financial statements are, Publishing, etc., of financial statements

(a) approved and signed in accordance with subsections (1) and (2); and

(b) accompanied by the report of the auditor of the corporation.

123.—(1) A provincial corporation that is an offering corporation shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder. Interim financial statement
R.S.O. 1980, c. 466

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the Idem

date to which it is made up, at the shareholder's latest address as shown on the records of the corporation.

PART VIII

BOOKS, RECORDS AND RETURNS

Records

124.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any photographic system, any system of mechanical or electronic data processing or any other information storage system and it shall be kept for such period as may be prescribed.

Security of records and availability

(2) A corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded in its records; and
- (b) provide means for making the information recorded in its records available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

Admissibility of records in evidence

(3) The bound or looseleaf book referred to in subsection (1) or, where the record is not kept in a looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

False information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or knowing any information to be untrue, shall,

- (a) record or assist in recording it in a record; or
- (b) make it available in a form referred to in clause (2) (b).

Location of records

125.—(1) Every registered corporation shall keep its instrument of incorporation and its by-laws at its principal place of business or at such place in Ontario other than the principal place of business as the directors designate and the corporation shall maintain at the principal place of business or at the designated place,

- (a) minutes of meetings and resolutions of shareholders;

- (b) a register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;
- (c) a securities register complying with section 126; and
- (d) a copy of the procedures referred to in section 152.

(2) An extra-provincial corporation that does not have its head office in Ontario shall be deemed to have complied with subsection (1) if it maintains at a place in Ontario designated by the directors a copy of its instrument of incorporation and its by-laws, and a copy of every minute, resolution, record and register referred to in clauses (1) (a), (b) and (c). Idem

(3) In addition to the records described in subsection (1), a provincial corporation shall maintain in Ontario, and a registered extra-provincial corporation shall maintain in Canada, Idem

- (a) adequate accounting records as required by this Act or the regulations;
- (b) records containing minutes of meetings and resolutions of the directors and every committee thereof;
- (c) a record of all investments held by the corporation; and
- (d) copies of all returns to the Superintendent required by this Act or the regulations.

(4) In addition to the records described in subsections (1) and (3), a registered corporation shall maintain in Canada, Idem

- (a) a record of all depositors, their names and addresses as far as is known and the sums deposited by such depositors;
- (b) where the corporation is a trust corporation, full and adequate records relating to the fiduciary activities of the corporation.

126.—(1) A provincial corporation shall maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities, Securities register

- (a) the names, alphabetically arranged of persons who,
 - (i) are or have been within six years registered as shareholders of the corporation, the residency of such shareholders, the address including the street and number, if any, of every such person while a holder, and the number and class or series of shares registered in the name of such holder,
 - (ii) are or have been within six years registered as holders of subordinated notes of the corporation, the address including the street and number, if any, of every such person while a holder, and the principal amount of the subordinated notes registered in the name of such holder, or
 - (iii) are or have been within six years registered as holders of warrants of the corporation, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and
- (b) the date and particulars of the issue of each security and warrant.

Transfer
register

(2) A provincial corporation shall cause to be kept in Ontario a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out.

Branch
transfer
registers

(3) A provincial corporation may maintain branch transfer registers at one or more places in Canada.

Transfer
agents

127. For each class of securities issued by it, a provincial corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof.

128.—(1) Registration of the transfer of a security or warrant of a provincial corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

(2) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers. Entry in register of transfers

(3) A provincial corporation or a person appointed under section 127 is not required to produce. Documents not required to be produced

(a) any security certificate or warrant that is not in registered form; or

(b) any security certificate or warrant that is in registered form after six years,

(i) in the case of a share certificate, from the date of its cancellation,

(ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or

(iii) in the case of a subordinated note, from the date of cancellation of the note.

129.—(1) The records mentioned in sections 125, 126 and 128 shall, during normal business hours of a corporation, be open to examination by any director. Open to examination

(2) A registered corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the principal place of business of the corporation or such other place as is authorized under this Part such records as will enable the directors to ascertain the financial position of the corporation. Records of account at branch

130. A shareholder of a provincial corporation is entitled upon request and without charge to one copy of the instrument of incorporation and the by-laws and the amendments thereto. Copies

List of
shareholders

131.—(1) Upon payment of a reasonable fee and upon sending to a provincial corporation or its transfer agent the statutory declaration described in subsection (6), any person who is a shareholder or holder of a subordinated note of the corporation, the person's agents or legal representatives and, where the corporation is an offering corporation, any other person, may require the corporation or its transfer agent to furnish within ten days of receipt by the corporation of the statutory declaration a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.

Idem

(2) The list referred to in subsection (1) when furnished shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental
lists

(3) A person requiring a corporation to supply a list under subsection (1) may, if the person states in the statutory declaration described in subsection (6) that the person requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

Idem

(5) A person requiring a corporation to supply a basic or supplemental list under this section may also require the corporation to include in the list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory
declaration

(6) The statutory declaration referred to in subsection (1) shall state,

- (a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, holder of a subordinated note or any other person referred to in subsection (1);
- (b) if the applicant is a body corporate, its address for service; and
- (c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8).

(7) If the applicant is a body corporate, the statutory declaration described in subsection (6) shall be made by a director or officer of the body corporate. Idem

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with, Use of information

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation.

132. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a provincial corporation. Trafficking in lists

133. Every registered corporation at the times prescribed shall provide to the Superintendent such financial or other information as may be prescribed. Returns

134.—(1) Every registered corporation shall prepare annually for the information of the Superintendent an annual return, on a consolidated basis and in the prescribed form, outlining the financial condition and affairs of the corporation for the fiscal year of the corporation, and the return shall be filed with the Superintendent within sixty days after the end of the period to which it relates. Annual return

(2) The return referred to in subsection (1) shall include, on an unconsolidated basis, the statement of the corporation and the statement of each of its subsidiaries. Idem

(3) The return referred to in subsection (1) shall have attached to it a report of the auditor, which report shall be prepared in accordance with the regulations. Idem

Idem

(4) The return referred to in subsection (1) shall be accompanied by a copy of a resolution of the directors showing that the return was adopted by them.

Filing of
financial
statements

135. Every registered corporation shall file with the Superintendent a copy of every statement of a financial nature furnished to its shareholders or the Ontario Securities Commission within five days after the distribution of the statement to the shareholders or its filing with the Ontario Securities Commission.

Filing of
corporate
changes

136. Every registered corporation shall file with the Superintendent,

- (a) copies of all applications and supporting documents of any nature made under such laws, as may be prescribed, of Canada or of any province or territory of Canada for any change in its instrument of incorporation or registration status and shall also file with the Superintendent a copy of any approval or refusal of such application within seven days of filing or receipt, as the case may be; and
- (b) copies of any changes made in its instrument of incorporation, registration or licence under the laws of Canada or of any province or territory of Canada.

Provision of
information

137.—(1) Every registered corporation shall provide to the Trust Companies Association of Canada such financial and statistical information as may be prescribed.

Publication

(2) Where the Trust Companies Association of Canada receives information under subsection (1), it shall report to the public such financial and statistical information as is prescribed at such periods as may be prescribed.

Public file

138.—(1) The Superintendent shall maintain a file on each registered corporation which shall contain such information as may be prescribed.

Idem

(2) Upon payment of the prescribed fee, any person, during usual office hours, may examine the registers referred to in section 30 and the file referred to in subsection (1) and may take extracts therefrom or obtain copies thereof.

PART IX

CONFLICT OF INTEREST

139. For the purposes of this Part, the Superintendent may designate,

Power to
designate
person as
restricted
party

- (a) any person to be a restricted party of a registered corporation if the Superintendent is of the opinion that,
 - (i) the person is acting in concert with a restricted party of the corporation to participate in or enter into an investment or other transaction with the corporation that would be prohibited or restricted if entered into with the corporation by the restricted party, or
 - (ii) there exists between the person and the corporation such an interest or relationship as might affect the exercise of the best judgment of the corporation with respect to an investment or other transaction; or
- (b) any shareholder of a registered corporation or of an affiliate of a registered corporation to be a restricted party of the corporation if the Superintendent is of the opinion that the shareholder is acting in concert with one or more other shareholders of the corporation or of an affiliate to control directly or indirectly 10 per cent or more of any class of shares of the registered corporation.

140.—(1) Except as provided in this Part,

Prohibitions,
restricted
parties

- (a) no registered corporation or subsidiary of a registered corporation shall purchase from or lend to a restricted party of the corporation or enter any other transaction with a restricted party of the corporation; and
- (b) no restricted party of a registered corporation shall purchase from or lend to the corporation or any subsidiary of the corporation or enter any other transaction with the corporation or any subsidiary of the corporation.

(2) Except as provided in clause 141 (1) (a), no registered corporation or subsidiary of a registered corporation shall knowingly invest by way of purchase of or loans on the secu-

Idem.
directors

rity of real estate or personal property that at any time in the period of thirty-six months preceding the date of the advance of any funds by the corporation or its subsidiary was owned by a director or the spouse or child of the director or any relative of the director or spouse who has the same home as the director.

Exception

R.S.O. 1980,
c. 466

(3) Subsection (2) does not apply where the investment is a purchase of or a loan on the security of securities, as defined in section 1 of the *Securities Act*, for which there is a published market, as defined in section 88 of that Act.

Idem

(4) This Part does not apply so as to prevent the payment of directors fees of the registered corporation or of a subsidiary of the registered corporation if the fees have been approved by the shareholders of the registered corporation.

Permitted
transactions,
board
approval

141.—(1) Subject to the prior approval of its board of directors of the registered corporation, a registered corporation or a subsidiary of a registered corporation may,

- (a) make a loan to any director, officer or employee of the corporation or to the spouse or any child of a director, officer or employee of the corporation on the security of the residence of the person to whom the loan is made if,
 - (i) the loan qualifies as an investment under clause 160 (1) (a),
 - (ii) the amount of the loan does not exceed 0.5 per cent of the capital base of the corporation, and
 - (iii) in the case of a director who is not an employee or officer of the corporation or his or her spouse or child, the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;
- (b) make a personal loan to any officer or employee of the corporation or to the spouse or any child of an officer or employee of the corporation if the loan qualifies as an investment under clause 160 (2) (b);
- (c) enter into written contracts with any restricted party for the provision of management services to or by the corporation or subsidiary so long as,

- (i) the consideration is at or exceeds competitive and fair rates where the services are provided by the corporation or the subsidiary and is otherwise reasonable for the services provided, and
 - (ii) the consideration does not exceed competitive and fair rates where the services are provided to the corporation or the subsidiary and is otherwise not unreasonable for the services provided;
- (d) enter into a written lease of real estate or personal property with any restricted party to the registered corporation or the subsidiary for its own use in carrying out its business, so long as,
 - (i) the rent does not exceed fair rental value,
 - (ii) the term of the lease and all renewals does not exceed five years, and
 - (iii) the terms of the lease are otherwise competitive and not unreasonable;
- (e) enter into written contracts with any restricted party for pension and benefit plans and other reasonable commitments incidental to the employment of officers and employees of the corporation or the subsidiary;
- (f) enter into employment contracts with officers or future officers of the corporation or the subsidiary;
- (g) enter into written contracts with any restricted party for the purchase of goods or services, other than management services, used or required by the corporation or the subsidiary in carrying on its business, so long as the price paid for such goods or services is competitive and at market value or fair rates, supported by appropriate documentation of such value or rates; and
- (h) enter into such investments or other transactions as may be prescribed.

(2) Notwithstanding clause (1) (a) or (b), a registered corporation may make a loan to an employee of the corporation who is not a director or officer of the corporation or to his or her spouse or child without obtaining the approval of the

Loans to
employees:
board
approval not
required

board of directors if the amount of the loan does not exceed \$100,000 and there is compliance with subclauses (1) (a) (i) and (ii) or clause (1) (b), as the case may be.

Other permitted transactions, board approval not required

(3) A registered corporation or a subsidiary of a registered corporation, without the approval of the board of directors of the registered corporation, may enter into,

- (a) employment contracts with persons who are not directors or officers of the corporation or the subsidiary;
- (b) transactions with a restricted party which involve nominal or immaterial outlays or expenditures to the public by the corporation or the subsidiary;
- (c) transactions with a restricted party for the sale of goods or the provision of services normally provided to the public by the corporation or the subsidiary in the ordinary course of business so long as the prices and rates charged by the corporation or subsidiary are competitive and at fair rates; and
- (d) such investments or other transactions as may be prescribed.

Onus on corporation

142. The onus of demonstrating that prices and rates are competitive or at fair rates, or that services are reasonable or that expenditures are immaterial, as the case may be, is upon the registered corporation or its subsidiary and the restricted party.

Trusts and estates

143.—(1) A registered trust corporation shall not participate in, or enter into, any investment or other transaction with a restricted party using funds held by the corporation as a fiduciary, other than funds held as deposits.

Idem

(2) Except as provided in this section, a registered trust corporation shall not invest funds held by the registered corporation as a fiduciary in any class of shares of the corporation or its affiliates.

Idem

(3) A registered trust corporation may act as a fiduciary of one or more trusts or estates that owns shares of the corporation or its affiliates if the shares were acquired before the corporation assumed responsibility as a fiduciary.

Idem

(4) Where a registered trust corporation acts as a fiduciary of one or more trusts or estates holding any class of shares of the corporation or its affiliates, the shares shall not be sold or

voted or an offer for the shares refused except with the approval of the board of directors and the reasons for such actions shall be entered in the minutes of the board of directors.

(5) Each year, the board of directors shall approve a report on the shares of the registered corporation or its affiliates held by the corporation as fiduciary and the reasons for the retention of the shares. Idem

(6) Nothing in this section authorizes a registered trust corporation to perform any act as a fiduciary which is otherwise prohibited. Idem

(7) Nothing in this section prevents a registered trust corporation from fulfilling a specific direction or permission of a court or of an instrument creating a fiduciary duty that the corporation should or may purchase or sell shares of the corporation or its affiliates or participate in, or enter into, any investment or other transaction with a restricted party but a general power to invest in the discretion of the fiduciary shall not be considered to be a specific direction or permission for the purposes of this subsection. Idem

144.—(1) Upon the application of a registered corporation filed with the Superintendent, the Lieutenant Governor in Council may consent to any investment or other transaction set out in this Part, with a restricted party if, in the opinion of the Lieutenant Governor in Council, the consent is necessary to the well-being of the registered corporation and the consent may be subject to such terms and conditions as are set out in the consent. Exemption

(2) Subsection (1) does not apply so as to permit the giving of consent for an investment or other transaction that is prohibited by section 143. Idem

145.—(1) A restricted party who is a party to an investment or other transaction with a registered corporation or a subsidiary of a registered corporation or to a proposed investment or other transaction with the corporation or the subsidiary for which the approval of the board of directors of the corporation is required, whether under this Act or otherwise, shall disclose in writing to the corporation the nature of the restricted party's interest. Disclosure of interest

(2) A director or officer of a registered corporation, with respect to an investment or other transaction with the corporation or a subsidiary of the corporation or with respect to a Disclosure of cross-directorship

proposed investment or other transaction with the corporation or the subsidiary, shall disclose the nature of the interest if,

- (a) he or she is a director or an officer of a body corporate that is a party to any investment or other transaction of the corporation or the subsidiary or a proposed investment or other transaction of the corporation or subsidiary; or
- (b) he or she holds 10 per cent or more of the shares of a body corporate described in clause (a).

Disclosure
by director

(3) The disclosure required by subsection (1) or (2) shall be entered in the minutes of the board of directors and shall be made, in the case of a director,

- (a) at the meeting at which a proposed investment or other transaction is first considered;
- (b) if the director was not then interested in a proposed investment or other transaction, at the first meeting after becoming interested;
- (c) if the director becomes interested after an investment or other transaction is entered into, at the first meeting after becoming interested; or
- (d) if a person who is interested in an investment or other transaction later becomes a director, at the first meeting after becoming a director.

Disclosure
by others

(4) The disclosure required by subsection (1) or (2) shall be made, in the case of a restricted party who is not a director,

- (a) forthwith after becoming aware that the investment or other transaction or proposed investment or other transaction is to be considered or has been considered at a meeting of directors;
- (b) if the restricted party becomes interested after an investment or other transaction is entered into, forthwith after becoming interested; or
- (c) if a person who is interested in an investment or other transaction later becomes a restricted party, forthwith after becoming a restricted party.

Director not
to vote

(5) A director required by subsection (1) or (2) to make a disclosure shall not take part in the discussion or vote on any resolution to approve a loan or investment or transaction in

relation to which disclosure is required under subsection (1) or (2) and the director shall not be present at any meeting of the board while it is dealing with the matter.

(6) A director referred to in subsection (5) shall not attempt in any way to influence the voting on any resolution to approve an investment or other transaction. Director
not to use
influence

146.—(1) Every registered corporation shall establish and its board of directors shall approve written review and approval procedures to be followed by the corporation to ensure compliance with this Part, and the board of directors shall review the procedures so established at least once each year. Procedures

(2) The procedures referred to in subsection (1) shall be developed by the investment committee of the board of directors and shall be reviewed at least twice each year by the investment committee. Idem

147. Where a restricted party, a registered corporation or any subsidiary of a registered corporation fails to comply with this Part, and where an investment or other transaction which is prohibited by this Part takes place, the corporation or the Superintendent may apply to the High Court of Justice for an order setting aside the investment or other transaction and directing that the restricted party account to the registered corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit, including compensation for the loss or damage suffered by the corporation and punitive or exemplary damages from the restricted party. Voidable
contract

148.—(1) Where an investment or other transaction that is prohibited under this Part takes place, a registered corporation or the Superintendent may apply to the High Court of Justice for an order that each person who participated in or facilitated such investment or other transaction made in contravention of this Part, pay to the corporation on a joint and several basis, Derivative
action

(a) the damages suffered;

(b) the face value of the investment; or

(c) the amount expended by the corporation in the transaction.

(2) Subsection (1) does not apply to a person who is not a director, unless the person knew or ought reasonably to have Savings

known that the investment or other transaction was made in contravention of this Part.

Reporting by
auditor

149. An auditor shall promptly report to the board of directors and the Superintendent any breach of any provision of this Part of which he or she is aware or of which he or she is made aware under section 150 and, if the board of directors does not act to rectify the breach within a reasonable period of time, the auditor shall promptly report the breach to the Superintendent.

Reporting by
others

150.—(1) Any person undertaking professional services for the registered corporation, other than an auditor under section 149, who in providing the professional services becomes aware of a breach of the provisions of this Part shall promptly report the breach to the board of directors and the auditor of the corporation.

Professional
advice

(2) No person undertaking professional services for a registered corporation shall advise the registered corporation or perform services for the corporation in an investment or other transaction in or to which the person is a party or has a direct or indirect beneficial interest.

Solicitor-
client
privilege

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

No liability

151. A person who in good faith makes a report under subsection 150 (1) shall not be liable in any civil action arising therefrom.

PART X

BUSINESS AND INVESTMENTS

Prudent
investment
standards

152.—(1) Every registered corporation shall adhere to prudent investment standards in making investment decisions and in managing its total investments.

Idem

(2) For the purposes of this Act, prudent investment standards are those which a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments, without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

Procedures

(3) Every registered corporation shall establish written procedures to ensure that prudent investment standards are applied by the corporation in making investment decisions and in managing the total investments of the corporation.

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least twice each year by the investment committee. Development of procedures

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors. Idem

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary. Approval by board

153.—(1) A registered provincial loan corporation and any other registered loan corporation that has capacity to do so may, in a debtor and creditor relationship for the purposes of investment, receive money. Deposits, loan corporations

(a) repayable on demand or after notice; or

(b) repayable upon the expiry of a fixed term.

and the corporation may issue debentures or other evidences of indebtedness in respect thereof, appropriate to the debtor and creditor relationship created thereby.

(2) A registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, for the purpose of investment, receive money. Deposits, trust corporations

(a) repayable upon demand or after notice; or

(b) repayable upon the expiry of a fixed term.

and the corporation may issue investment certificates or other evidences of the money received, appropriate to the trust relationship created thereby.

(3) Money received by a trust corporation under subsection (2) shall be deemed to be held by it in trust for its depositors and it shall be deemed to guarantee the repayment thereof. Idem

(4) Notwithstanding subsection (3), a trust corporation may retain the interest and profit resulting from the investment of money received by it under subsection (2) in excess of the amount of interest payable to its depositors in respect thereof. Idem

Idem

(5) Every trust corporation receiving money as authorized by subsection (2) shall earmark and set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection, "cash" includes moneys on deposit and "securities" includes investments authorized under sections 160 to 164 and 168.

Idem

(6) An investment certificate or other evidence of money received issued by a trust corporation shall indicate in a clearly visible manner that it is guaranteed only as against the assets of the corporation earmarked and set aside under subsection (5).

Deposit
insurance

154.—(1) No registered corporation shall exercise the powers mentioned in section 153 unless it is a member of the Canada Deposit Insurance Corporation or its deposits are insured by some other public agency approved by the Superintendent to the maximum amounts permitted by the agency.

Idem

(2) A provincial corporation, with the approval of the Superintendent, may borrow money from the Canada Deposit Insurance Corporation or other similar public agencies approved by the Superintendent, and, for such purposes, the corporation may mortgage thereto the cash and securities earmarked and set aside under section 153.

Borrowing
multiples,
limits

155.—(1) Subject to subsections (2) and (4), the total amount,

- (a) received as deposits and otherwise borrowed by a registered loan corporation; and
- (b) received as deposits and borrowed by a registered trust corporation,

shall not exceed, at any time, an amount equal to ten times its capital base.

Exclusions
from
calculation

(2) Amounts borrowed by a registered corporation by way of subordinated notes and by way of mortgages on real estate owned by the corporation shall not be included in a determination of a total amount under subsection (1).

Increase in
borrowing
multiple

(3) On the application of a registered corporation, the Superintendent, by order and subject to such terms and conditions as may be set out in the order, may increase the total amount that may be borrowed or received by the corporation to an amount equal to such multiplier in excess of ten times but not exceeding twenty-five times its capital base as may be

set out in the order and subsections (1) and (2) shall be deemed to apply to such increased amount, substituting the new multiplier for "ten" in subsection (1).

(4) A registered corporation may exceed, at any time, the limit on its borrowing multiple as set out in subsection (1) or as set out in an order under subsection (3) if the board of directors has approved, by a resolution passed on an annual basis, the exceeding of the limit and so long as the amount by which the limit is exceeded is invested in a manner prescribed by the regulations. Borrowing
over limit

(5) No order shall be made under subsection (3) unless the application of the corporation is accompanied by a certified copy of a special resolution of the corporation supporting the increase requested under subsection (3). Copy of
special
resolution

(6) At least once each year, the Superintendent shall review the borrowing multiple authorized for each corporation to determine if the borrowing multiple is appropriate. Duty of
Superin-
tendent

156.—(1) A registered corporation may borrow money by way of the issue of notes having a denomination of at least \$100,000. Subordinated
notes

(2) A note issued under this section shall be known as a subordinated note and the following provisions apply to every such note: Idem

1. A subordinated note is not a deposit of the issuing corporation and is not insured by the Canada Deposit Insurance Corporation or any similar public agency.
2. In the event of the insolvency or winding up of the corporation, the indebtedness evidenced by each subordinated note ranks equally with the indebtedness evidenced by all other subordinated notes of the corporation and is subordinated in right of payment to all other indebtedness of the corporation.
3. Every subordinated note shall be evidenced by a certificate in a form approved for the corporation by the Superintendent and containing a statement of the terms set out in paragraphs 1 and 2 and such other information as the Superintendent, in approving the form, may require.

4. A subordinated note shall not be issued by a registered corporation except on application to its secretary.

Idem

(3) No registered corporation or person acting on its behalf, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation, shall refer to the note otherwise than as a subordinated note and the registered corporation or person, as the case may be, shall indicate clearly therein that the subordinated note is not a deposit that is insured by the Canada Deposit Insurance Corporation or other similar public agency.

Pledging for
liquidity
reasons

157.—(1) A registered corporation may pledge any of its own assets as security for a debt obligation of the corporation if the debt obligation is issued in respect of money borrowed to enable the corporation to meet short term requirements for liquid funds arising from its operations and if the total debt obligation of the corporation in relation to which assets are so pledged does not exceed 50 per cent of the capital base.

Exception

(2) Subsection (1) does not apply so as to prevent a pledge of assets to the Government of Canada with respect to the sale of Canada Savings Bonds or such other transactions as may be named in the regulations.

Notice to
Superin-
tendent

(3) A corporation pledging any asset under subsection (1) shall promptly notify the Superintendent in writing of the amount so secured and of the nature of the asset pledged as security.

Borrowing
without
security

(4) A registered trust corporation shall not borrow money, except from a bank or a registered corporation, unless,

- (a) it is borrowing by way of subordinated notes; or
- (b) it is borrowing money as authorized by subsection (1).

Receiver
prohibited

(5) Any agreement under which a creditor of a registered corporation is authorized by reason of the failure of the corporation to make payment in respect of a debt obligation to appoint a receiver or acquire control of the corporation or of any asset of the corporation, other than an asset pledged as security under subsection (1) or (2), is void.

Pledge to
restricted
party
prohibited

(6) A registered corporation shall not pledge any of its assets to a restricted party of the corporation.

158. Every registered corporation, at all times, shall maintain liquid assets in such form and amounts and in such manner as is prescribed. Liquidity

159.—(1) Except as provided in this Act, no registered corporation shall participate in or enter into any investment or pledge any of its assets. Restriction on investments, etc.

(2) No registered corporation shall purchase directly or indirectly, Shares of financial institution

(a) shares or subordinated notes of any other corporation except under section 28 or clause 167 (1) (c) or (d); or

(b) shares of any bank.

160.—(1) A registered corporation may invest by way of purchase of or loans on the security of, Eligible investments

(a) mortgages upon improved real estate in Canada so long as the amount paid for or advanced on any mortgage, together with the amount of indebtedness under any mortgage, on the real estate ranking equally with or prior to the mortgage, in which the purchase or loan is made, does not exceed the lending value of the real estate to which the mortgage relates unless, mortgages

(i) the loan for which the mortgage is security is approved or insured under the *National Housing Act* (Canada), or R.S.C. 1970, c. N-10

(ii) the excess is guaranteed or insured through an agency of the Government of Canada or of a province of Canada or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or similar legislation of any province or territory of Canada; R.S.C. 1970, c. 1-15, 1-16
R.S.O. 1980, c. 218

(b) debentures, bonds or other evidences of indebtedness, debentures, bonds

(i) of or guaranteed as to principal and interest by the Government of Canada or of a province of Canada.

- (ii) of or guaranteed by a foreign country or state forming part of such foreign country where the interest on the securities of such foreign country or state has been paid regularly when due for the previous ten years,
- (iii) of any municipality in Canada or school board in Canada or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality or school board for the jurisdiction in which the property is situated,
- (iv) of any company that are secured by a mortgage to a trust corporation in Canada, other than the investing corporation or its affiliate, either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes in clause (a) or subclause (i), (ii), (iii) or (v),
- (v) of a company incorporated in Canada that are secured by the assignment to a trust corporation in Canada, other than the investing corporation or its affiliate, of payments that the Government of Canada or of a province of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity,

but if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral;

idem

- (c) bonds or debentures of or guaranteed by any company if the company has been in *bona fide* operation for at least five years;

preferred
shares

- (d) the preferred shares of a company, where, at the date of the purchase, the common shares of the company are authorized as investments by clause (e) or, if the investment is by way of loan, where the amount of loan does not exceed, at any time, the market value of the security given as collateral;

- (e) the fully paid common shares of a company that in a period of five fiscal years that ended less than one year before the date of the purchase or loan has been in *bona fide* operation for at least five years, but if the investment is by way of a loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; common shares
 - (f) mortgages or assignments of life insurance policies if at the date of the loan such policy has an ascertained cash surrender value admitted by the insurer at least equal to the amount of the loan; life insurance policy
 - (g) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; deposits in banks
 - (h) deposits in a registered corporation but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; and deposits in registered corporation
 - (i) deposits in a credit union or caisse populaire but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral. deposits in credit unions
- (2) A registered corporation may invest, Government guaranteed loans,
- (a) if designated as a bank or a lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada), the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada), by lending money by way of guaranteed loans under and in accordance with the Acts for which it has been designated; personal loans, commercial lending
R.S.C. 1970, cc. S-17, F-3, F-22, S-10
 - (b) by making personal loans to any individual, with or without security, not exceeding those amounts as may be prescribed; and
 - (c) by making loans for business or commercial purposes not authorized by any other provision of this Act payable on demand or in less than one year to companies, partnerships, proprietorships and joint ventures.

Leases and
conditional
sale
agreements

(3) A registered corporation may invest by way of loan where the evidence of the investment is a lease of personal property or an instrument similar to a lease of personal property or a conditional sales contract but only if the investment is for a fixed term and,

- (a) the lessee or conditional purchaser is the Government of Canada or of a province of Canada or any agency thereof or any municipality in Canada; or
- (b) the lessee or conditional purchaser is a company incorporated in Canada or is a subsidiary of a company incorporated in Canada and, at the date of the investment, the company had been in *bona fide* operation at least five years.

Restrictions
on personal
loans,
commercial
lending,
leases
and
conditional
sales
agreements

(4) A registered corporation shall not make investments,

- (a) under clause (2) (b) or (c) or clause (3) (b) unless,
 - (i) it has received approval of the Superintendent to make such investments, and
 - (ii) it complies with the terms and conditions, if any, imposed on the corporation with respect to such investments;
- (b) under clause (2) (b) unless the aggregate total of such investments is 20 per cent or less of the total assets of the corporation or such lower percentage as the Superintendent may approve;
- (c) under clause (2) (c) unless,
 - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
 - (ii) the aggregate total of such investments is 10 per cent or less of the total assets of the corporation or such lower percentage as the Superintendent may approve; and
- (d) under clause (3) (b) unless,
 - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
 - (ii) the aggregate total of such investments is 10 per cent or less of the total assets of the cor-

poration or such lower percentage as the Superintendent may approve.

161.—(1) Subject to subsection (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada for the production of income.

Real estate
for the
production
of income

(2) The total book value of all investments in real estate under this section and section 162, whether in a corporation or in a subsidiary of the corporation, shall not exceed 10 per cent of the total assets of the corporation and not more than 1 per cent of the total assets of the corporation may be invested in any one parcel of real estate purchased under this section.

Idem

162.—(1) Subject to subsection 161 (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada that is or is to be occupied by the corporation for its own use.

Real estate
for own use

(2) For the purposes of this section, real estate purchased by a subsidiary of a registered corporation that is occupied and used by the subsidiary for its own purposes shall be deemed to be real estate purchased by the registered corporation under this section.

Idem

(3) The total book value of the investments in real estate occupied by a registered corporation and its subsidiaries under this section whether in the corporation or in a subsidiary shall not exceed an amount equal to the capital base of the corporation.

Restriction

163. The book value of real estate that has been mortgaged to a corporation or any of its subsidiaries and that has been acquired by the corporation or the subsidiary to protect its investment and of real estate that has been conveyed to it or any of its subsidiaries in satisfaction of debts previously contracted in the course of the corporation's business or that of the subsidiary need not be included in determining total book value of real estate for the purposes of subsection 161 (2) or 162 (3).

Exclusion of
foreclosed
real
estate from
determination
of
total book
value

164.—(1) A registered corporation, by way of purchase or loan, may make investments not authorized by section 160, 161 or 162 if the investment is not prohibited under any other provision of this Act so long as the total book value of investments made under this section and held by the corporation does not exceed 5 per cent of the total assets of the corporation.

"Open
basket"

(2) Subsection (1) does not apply so as to,

Idem

- (a) enlarge the authority conferred by this Act to invest in mortgages, or to lend on the security of real estate; or
- (b) affect the limit of 10 per cent of the total assets that may be invested in real estate under section 161.

Idem

(3) Where a corporation has received the approval of the Superintendent to make investments under clause 160 (2) (b) or clause 160 (2) (c) or clause 160 (3) (b), the corporation shall not make any such investments under subsection (1).

Investment
limits

165.—(1) Notwithstanding any other provision of this Act, a corporation shall maintain at all times at least 50 per cent of its total assets, excluding assets of subsidiaries, in,

- (a) bonds, debentures or other evidences of indebtedness,
 - (i) of or guaranteed by the Government of Canada or any province of Canada,
 - (ii) of any municipality or school board in Canada, or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality or school board for the jurisdiction in which such property is situated;
- (b) first mortgages, upon real estate in Canada;
- (c) bonds, debentures or other evidences of indebtedness of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity;
- (d) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank;
- (e) deposits in a registered corporation;
- (f) bonds or debentures of banks; or

- (g) any combination of cash and the investments referred to in clauses (b) to (e).

(2) Investments by a registered corporation in third and subsequent mortgages shall be limited to 2 per cent of the total assets of the corporation.

Third and subsequent mortgages

(3) For the purposes of subsection (2), an investment in a third or subsequent mortgage by a subsidiary of a corporation shall be deemed to be an investment in the mortgage by the corporation.

Idem

(4) A registered corporation shall not make an investment in shares, bonds or debentures of a company if, after the investment, the corporation will hold shares, bonds and debentures of the company carried on the corporation's books, in aggregate, at more than 25 per cent of its total assets.

Shares, etc.

(5) For the purposes of subsection (4), an investment in shares, bonds or debentures by a subsidiary of a corporation, other than a mutual fund subsidiary of the corporation, shall be deemed to be an investment by the corporation.

Idem

166. No corporation shall directly or indirectly,

Restrictions on amount of single investments

- (a) except as to securities issued or guaranteed by the Government of Canada, including mortgages insured under the *National Housing Act* (Canada), or the government of any province of Canada or by any municipality in Ontario, invest, by way of purchase from or loans to persons that to the knowledge of the corporation are related to one another, an amount exceeding 1 per cent of the corporation's total assets; or

R.S.C. 1970, c. N-10

- (b) make any investment the effect of which will be that the corporation will hold more than 10 per cent of the voting shares of any one body corporate other than a subsidiary of the corporation.

167.—(1) Subject to such terms and conditions concerning subsidiaries as may be prescribed, a registered corporation may establish or acquire as a subsidiary,

Investment in subsidiaries

- (a) any company incorporated in Canada to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;

- (b) with the prior approval of the Superintendent, any company incorporated other than in Canada to acquire, hold, maintain, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;
- (c) with the prior approval of the Superintendent and subject to such terms and conditions as the Superintendent may impose or as may be prescribed, any company to carry on any other business activity reasonably ancillary to the business of a corporation;
- (d) a loan corporation in Canada, if the investing corporation is a trust corporation; and
- (e) a trust corporation in Canada, if the investing corporation is a loan corporation.

Prohibition

(2) A subsidiary described in subsection (1) shall not invest its funds except as provided for registered corporations in this Act.

Idem

(3) Subsection (2) does not apply to a subsidiary described in clause (1) (b) so long as the corporation satisfies all terms and conditions imposed by the Superintendent or the regulations.

Idem

(4) A registered corporation shall not make an investment in or guarantee any obligation of a subsidiary of the corporation if, after the making of the investment or the giving of the guarantee, the total book value of all such investments and guarantees will exceed 5 per cent of the corporation's total assets.

Idem

(5) Subsection (4) does not apply to investments in or guarantees of the obligations of a subsidiary described in clause (1) (c) or (d).

Other
investments
authorized

168. The Lieutenant Governor in Council may authorize the acceptance by a registered corporation of bonds, notes, shares, debentures or other assets not fulfilling the requirements of this Act,

- (a) obtained in payment or part payment for securities sold by the corporation;
- (b) obtained under a *bona fide* arrangement for the reorganization of a body corporate whose securities were previously owned by the corporation;

- (c) obtained under an amalgamation with another body corporate of the body corporate whose securities were previously owned by the corporation;
- (d) obtained for the *bona fide* purpose of protecting investments of the corporation;
- (e) obtained by virtue of the purchase by the corporation of the assets of another corporation; or
- (f) obtained by virtue of realizing a security for a loan where the security is shares in a body corporate and the effect of realizing such security is that a registered corporation shall hold more than 10 per cent of the voting shares in any one body corporate.

but the bonds, notes, shares or debentures or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof or, within such further time not exceeding one year as the Lieutenant Governor in Council, on the report of the Superintendent, may fix and determine, unless it can be shown to the satisfaction of the Superintendent that the bonds, notes, shares, debentures or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

169. A registered corporation may take real or personal property as collateral security for any advance or for any debt due to the corporation in addition to any security required by or under this Act.

Personal
property as
collateral

170. A single loan that is secured by two or more assets or classes of assets that would, but for this section, not be an investment of the corporation permitted by or under this Act may be divided into different amounts and considered as separate loans with respect to each asset or class of assets for the purposes of determining whether the loan is permitted by or under this Act.

Allocation of
security

171.—(1) Notwithstanding this or any other Act, every provincial trust corporation and any other registered trust corporation that has capacity to do so may, unless the trust instrument otherwise directs, invest trust money in one or more common trust funds of the trust corporation and, where trust money is held by the trust corporation as a co-trustee, the investment thereof in a common trust fund may be made by the trust corporation with the consent of its co-trustees.

Common
trust
funds
authorized

Exception

(2) A common trust fund authorized by subsection (1) shall not include any money in relation to a trust established exclusively for savings plans registered under the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 146

Idem

(3) No common trust fund shall be established or operated except in the prescribed manner.

Passing of
accounts

(4) A trust corporation may, at any time, and shall, when required in writing by the Superintendent so to do under subsection (5), file and pass an account of its dealings with respect to a common trust fund in the surrogate court having jurisdiction in the place in which the fund is being administered, and the court, on the passing of the account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

When
account
final

(5) An account filed with the Superintendent in accordance with the regulations, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed, the Superintendent requires in writing that the account be filed and passed in the surrogate court.

Accounting
only
necessary
under this
section or
regulations

(6) Notwithstanding any other Act or law, a trust corporation shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Time and
place for
passing of
account

(7) Upon the filing of an account under this section, the court shall fix a time and place for the passing of the account, and the trust corporation shall cause a written notice of the appointment and a copy of the account to be served upon the Superintendent at least fourteen days before the date fixed for the passing, and the trust corporation shall not be required or give any other notice of the appointment.

Form of
account

(8) For the purposes of an accounting under this section, an account may be filed in the form of audited accounts filed with the Superintendent in accordance with the regulations.

Superin-
tendent
to represent
persons
having
interest in
fund

(9) Upon the passing of an account under this section, the Superintendent shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right, at the person's own expense, to appear personally or to be separately represented.

(10) Where an account filed under this section has been approved by the surrogate court, the approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account.

Approval of
court

(11) The costs of passing an account under this section shall be charged to principal and income of the common trust fund in such proportions as the surrogate court considers proper.

Costs

172. A registered trust corporation that administers, promotes or operates a mutual fund to which the *Securities Act* applies or that has a subsidiary that administers, promotes or operates such a mutual fund shall file with the Superintendent proof of the fund's acceptability to the Ontario Securities Commission within thirty days of receiving notice from the Commission of the fund's acceptability.

Mutual funds
R.S.O. 1980,
c. 466

173.—(1) The liability of a registered trust corporation to persons interested in an estate held by the trust corporation as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the corporation's powers are the same.

Extent of
liability

(2) Where a registered trust corporation is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the corporation being accepted as a trust corporation for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the corporation, appoint the corporation to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the corporation probate of any will in which the corporation is named as an executor.

Approval of
the
corporation
as executor,
etc.

(3) A registered trust corporation approved by the Lieutenant Governor in Council under subsection (2),

Appointment
as trustee

- (a) may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee;
- (b) may be appointed to any of the offices mentioned in subsection (2) jointly with another person; and
- (c) the appointment may be made whether the trustee is required under a deed, will or document creating

a trust or whether the appointment is under the *Trustee Act* or otherwise.

R.S.O. 1980,
c. 512

Security not
required

(4) Notwithstanding any rule, practice or statutory provision, it is not necessary for a trust corporation approved under subsection (2) to give any security for the due performance of its duty as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless so ordered by a court.

Trusts

174.—(1) A registered corporation is not bound to see to the execution of any trust, whether express, implied or constructive, other than a trust to which the corporation is a party, to which any of its deposits are subject.

Sufficient
discharge

(2) The receipt of the person in whose name any deposit stands in the books of the corporation to which subsection (1) applies is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such deposit stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

Application
of
money paid

(3) A corporation is not bound to see to the application of any money paid upon a receipt under subsection (2).

PART XI

ADMINISTRATION

Appointment
of
Superin-
tendent

175.—(1) The Lieutenant Governor in Council shall appoint an officer of the Ministry to be the Superintendent of Deposit Institutions who shall carry out the duties and exercise the powers of the Superintendent under this Act.

Appointment
of
Director

(2) The Superintendent may appoint an officer of the Ministry to be the Director to carry out the duties and exercise the powers of the Director under this Act.

Appeal
panels

176.—(1) When an appeal is requested under this Act, the Minister shall appoint a panel to hear the appeal.

Composition

(2) An appeal panel shall consist of two persons who are not public servants and the Superintendent.

Secretary

(3) The Superintendent shall act as secretary of every appeal panel.

(4) In appointing an appeal panel, the Minister shall name one of the persons who is not a public servant to be the chairman of the panel.

Chairman

(5) No individual shall be disqualified from acting as a member of an appeal panel solely on the grounds that he or she is a depositor in the corporation which is the subject of the proceedings before the panel.

Idem

(6) The members of an appeal panel, other than the Superintendent, shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Remuneration

(7) Section 8 of the *Ministry of Consumer and Commercial Relations Act* applies to members of an appeal panel.

Application
of
R.S.O. 1980,
c. 274

177.—(1) No officer or employee of the Ministry performing duties or exercising powers under this Act shall accept or receive, directly or indirectly, any grant or gratuity from a corporation or any affiliate of a corporation or from any director, officer, employee or agent of a corporation or affiliate of a corporation and no corporation, director, officer, employee or agent of a corporation or any affiliate of a corporation shall make or give, directly or indirectly, any such grant or gratuity.

No grants or
gratuities to
Ministry
officials

(2) No officer or employee of the Ministry performing duties or exercising powers under this Act shall hold any shares of any corporation.

Interest as
shareholder

178. The Superintendent and Director may, for the purposes of the administration and enforcement of this Act and the regulations, act outside Ontario as if they were acting inside Ontario.

Capacity
outside
Ontario

179.—(1) Records required by this Act to be prepared and maintained by the Superintendent or Director may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system or mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Records

(2) When records maintained by the Superintendent or Director are prepared and maintained other than in written form,

Admission as
evidence

- (a) the Superintendent or Director, as the case may be, shall furnish any copy required to be furnished in intelligible written form; and

- (b) a report reproduced from those records, if it is certified by the Superintendent or Director, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Idem

(3) Neither the Superintendent nor the Director shall be required to produce any document where a copy of the document is furnished in compliance with clause (2) (a).

Power to
require
evidence

180.—(1) In pursuance of his or her duties under this Act, the Superintendent or Director may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employment
of
stenographer

(2) The evidence and proceedings in any matter before the Superintendent or Director may be reported by a stenographer who has taken an oath before the Superintendent or Director faithfully to report the same.

Examina-
tions,
audits and
inspections,
general

181.—(1) It is a condition of the registration of a corporation that it facilitate examinations, audits and inspections under this Act.

Material to
be furnished

(2) For the purpose of an examination, audit or inspection under this Act, the registered corporation and its subsidiaries shall prepare and submit to the person conducting the examination, audit or inspection such statements or returns with respect to its business, finances or other affairs, in addition to the statements or returns mentioned in this Act, as the Superintendent or Director may require, and the officers, agents and servants of the corporation and its subsidiaries shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production
of books

(3) In order to facilitate an examination, audit or inspection of the books and records of a registered corporation, the corporation and its subsidiaries may be required by the Superintendent or the Director to produce the books and records at the principal place of business of the corporation in Ontario, or at such other convenient place as the Superintendent or Director may direct.

Expense of
further
inspection

(4) On the direction of the Superintendent or Director, where an examination, audit or inspection of a corporation or a subsidiary of a corporation is made at an office situate outside Ontario, the corporation shall pay the costs and expenses in connection with such examination, audit or inspection.

182.—(1) Once each year or during such other period as the Superintendent may consider appropriate for a particular corporation, the Superintendent shall examine or cause a person acting under his or her direction to examine the statements of the condition and affairs of each registered corporation and the Superintendent or person shall make such inquiries as are necessary to ascertain the corporation's condition and ability to meet its obligations as and when they become due, whether the corporation is following sound business and financial practices, the procedures and standards of its management and whether or not the corporation has complied with this Act and the regulations and any requirement, order, term, condition or restriction of registration or inquiry made thereunder.

Annual
inspection of
registered
corporations

(2) In conducting the examination required by subsection (1), the Superintendent or other person shall attend at the principal place of business of the corporation and, if he or she considers it necessary, the Superintendent or person acting may visit any branch or office of the corporation.

Idem

(3) If the Superintendent is satisfied that an examination of a registered extra-provincial corporation conducted by the Government of Canada or of any province or territory of Canada complies with the standards required by the Superintendent for the examination of a corporation under subsection (1), the Superintendent may accept such examination, in whole or in part, as if it were an examination by the Superintendent under subsection (1).

Reliance on
inspection
by another
government

183. The Director, or any person designated by the Director, may at any time within business hours examine any books of or in the possession of a registered corporation or any of its subsidiaries relating to its business, wherever situate, and vouchers, securities and documents of a registered corporation.

Examination
by
Director

184.—(1) The Minister, on the Minister's own motion or upon an application by any interested party being made in writing, may appoint any person to make a special examination and audit of a registered corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

Special
examination

(2) An application under subsection (1) shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.

Evidence
upon
which inquiry
to be
ordered

Security for
costs

(3) The Minister may require an applicant under subsection (1) to give security for the payment of the costs of the inquiry to be given before appointing the special examiner.

Powers of
examiner

(4) A special examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the powers of a commissioner under Part II of the *Public Inquiries Act*, which Part applies as if the examination, audit or inquiry were an inquiry under that Act.

R.S.O. 1980,
c. 411

Report to
Minister

(5) Upon the conclusion of the examination, audit and inquiry, the special examiner shall make a report in writing to the Minister.

Payment of
costs

(6) The Minister may, on the conclusion of an examination under this section, order the registered corporation or the party requesting the examination under subsection (1) to pay costs of such examination.

Inquiries
by
Superin-
tendent

185.—(1) The Superintendent or Director may address any inquiries under this Act to a registered corporation or to the president, secretary or any other officer thereof and, in the case of an extra-provincial corporation, also to its agent under section 32, for the purpose of ascertaining the corporation's condition and ability to meet its obligations or as to the conduct of its business or as to complaints made by depositors, borrowers or by persons for whom the registered corporation acts in a fiduciary capacity and it is the duty of a registered corporation or officer so addressed to reply promptly in writing to any such inquiry.

Notice to
directors

(2) The Superintendent or Director may require a registered corporation to forward a copy of any letter addressed to the registered corporation by the Superintendent or Director and any answer thereto to each director of the corporation and, upon such requirement being made, the secretary of the corporation shall include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement being made by the Superintendent or Director.

Extension
of time

186. Where by or under this Act a registered corporation is required to provide or file with the Superintendent any return or document or other information, the Superintendent, in his or her absolute discretion and upon payment by the corporation of the prescribed fee, may, before or after the last day for making the submission, extend the time therefor for such period not exceeding sixty days as he or she considers appropriate.

187.—(1) A notice published in *The Ontario Gazette* over the name of the Superintendent is, without further proof, *prima facie* proof of the facts set forth in the notice.

Notice as
proof

(2) A certificate of the Superintendent that on a stated day a body corporate mentioned therein was or was not registered or was registered subject to terms, conditions or restrictions, or that the registration of a corporation was revoked on a stated day, is *prima facie* proof of the facts stated in the certificate.

Certificate as
to
registration

(3) Copies of, or extracts from, any book, record, instrument or document in the office of the Superintendent or of or from any instrument or document issued under this Act, if certified by the Superintendent to be true copies or extracts, shall be held as authentic and are *prima facie* proof of and have the same legal effect as the original.

Certified
copies

188. The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada or any province or territory in Canada, or the appropriate authority thereof, related to the administration and enforcement of this Act or of comparable legislation of any such other jurisdiction and, without restricting the generality of the foregoing, any such agreement may provide for the provision and exchange of information.

Agreements
with other
Governments

189.—(1) The Superintendent may do all things necessary or incidental to the administration and enforcement of this Act and the regulations and, in particular, but without limiting the generality of the foregoing, may,

Capacity of
Superin-
tendent

- (a) enter into contracts with registered corporations related to the management and rehabilitation of such corporations;
- (b) receive undertakings from extra-provincial corporations and enter into agreements with extra-provincial corporations; and
- (c) enter into contracts with third parties related to the administration of this Act and the regulations and give indemnities to third parties related to such activities as are authorized under such contracts.

(2) The Superintendent shall, not later than the 30th day of June in each year, submit to the Minister a report on the activities of the Superintendent's office for the twelve-month period ending on the preceding 31st day of March and the

Annual
report

Minister shall then lay the report before the Assembly if it is in session or, if not, at its next session.

PART XII

ENFORCEMENT AND CIVIL REMEDIES

Director's
orders

190.—(1) Where, in the opinion of the Director, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with a voluntary compliance program under section 196;
- (d) does not comply with any undertaking given under this Act;
- (e) constitutes a practice which might prejudice or adversely affect the interests of depositors or, if the corporation is a trust corporation, of persons for whom the corporation acts in a fiduciary capacity,

the Director may give notice to the registered corporation or other person of an intention to order the corporation or other person,

- (f) to cease doing any act or to cease pursuing any course of conduct identified by the Director; or
- (g) to perform such acts as in the opinion of the Director are necessary to remedy the situation.

Hearing

(2) The corporation or other person, by written notice served on the Director within fifteen days after the service of the notice on the corporation or other person under subsection (1), may require a hearing before the Director.

When order
may be made

(3) Where no hearing is requested within the time set out in subsection (2) or (4), or where a hearing is held and the Director is of the opinion that an order described in clause (1) (f) or (g) should be made, the Director may make a permanent order under either of those clauses which shall take effect immediately on its making or at such later date as may be set out in the order.

(4) Notwithstanding subsection (2), where in the opinion of the Director the interests of the depositors or the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Director may make a temporary order as described in clause (1) (f) or (g) which shall take effect immediately on its making and which shall become permanent on the fifteenth day after its making unless within that time a hearing before the Director is requested.

Temporary
order

(5) A request for a hearing under subsection (4) shall be in writing and served on the Director.

Hearing

(6) Where a hearing is requested under subsection (4), the Director may extend the temporary order until the hearing is concluded or any appeal from the hearing is concluded and the order is confirmed, varied or revoked.

Extension
of order

(7) Where an order is made under this section, a copy of the order shall be sent to each director of the affected corporation.

Copy to
directors

(8) The Director, at any time, may revoke an order made under this section.

Modification
or
revocation of
order

191.—(1) A party to a hearing before the Director, within fifteen days after the receipt of the Director's decision, may appeal the decision to an appeal panel by serving a notice in writing of the appeal on the Superintendent who shall advise the Minister forthwith of the request.

Appeals

(2) An appeal shall be based on such evidence as may be presented to the appeal panel, and the panel, upon hearing an appeal, may confirm, vary or revoke the order that is the subject of the appeal.

Idem

192.—(1) Where this Act provides for an approval or consent of the Superintendent, he or she may give or refuse such approval or consent and an approval or consent may be subject to such terms and conditions as the Superintendent may impose.

Superin-
tendent
approvals

(2) A decision by the Superintendent under this Act shall be in writing and is not subject to appeal to an appeal panel.

Final decision

(3) Before refusing an approval or consent or before granting an approval or consent subject to terms and conditions, the Superintendent shall give the registered corporation notice of his or her intention and the registered corporation may require a hearing before the Superintendent.

Hearing

Power of
Superin-
tendent

(4) The Superintendent may at any time, having given the registered corporation an opportunity to be heard before him or her, confirm, revoke or vary any approval, consent or refusal.

Restriction
on borrowing
multiples

(5) The Superintendent may at any time, having given the registered corporation an opportunity to be heard, reduce the limit on its borrowing multiple authorized under section 155,

(a) that a registered trust corporation may receive by way of deposit or borrow to any amount, including a multiplier that is less than ten times its capital base; or

(b) that a registered loan corporation may borrow to any amount including a multiplier that is less than ten times its capital base.

Director may
be party

193. The Director is entitled to attend and to be represented by counsel at any hearing before an appeal panel.

Transcript

194. Oral evidence taken before the Director, the Superintendent or an appeal panel may be recorded and, if recorded, copies of a transcript thereof shall be furnished upon request upon the same terms and for the same fees as in the Supreme Court.

Hearings *in
camera*

195. A hearing before the Director, the Superintendent or an appeal panel, at the discretion of the Director, the Superintendent or the chairman of the panel, as the case may be, may be heard *in camera* or in public.

Voluntary
compliance
program

196.—(1) Where, in the opinion of the Superintendent, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with any undertaking given under this Act; or
- (d) constitutes a practice that might prejudice or adversely affect the interests of depositors or persons for whom the registered corporation, if a trust corporation, acts in a fiduciary capacity,

the registered corporation or other person may enter into a program of voluntary compliance related to any act or course of conduct described in clause (a), (b), (c) or (d).

(2) A voluntary compliance program under this section shall be in writing and shall bind the registered corporation or other person from the time it is approved by the Superintendent. Idem

(3) Where a voluntary compliance program has been entered into, the Director shall not be prevented from making orders against the registered corporation or other person, Powers of Director and Superintendent not affected

- (a) on matters not covered by the program;
- (b) where the program is not complied with, on matters covered in the voluntary compliance program;
- (c) if there has been a deterioration in the condition of the registered corporation; or
- (d) on matters covered in the program where all the facts related to the matter covered by the program were not known by the Superintendent at the time the program was entered into.

(4) The Superintendent on the request of a registered corporation may approve the alteration of a voluntary compliance program entered into under this section. Modification of program

197.—(1) Where,

- (a) a registered corporation or other person has not complied with an order of the Director or of an appeal panel;
- (b) a registered corporation or other person has breached an order of the court made under section 208;
- (c) grounds exist for the possession and control of a registered corporation by the Superintendent; or
- (d) a registered corporation's authority to carry on business has been cancelled or suspended under a law of Canada or of any province or territory of Canada,

Cancellation of registration

the Director may revoke the registration of the corporation or impose terms, conditions or restrictions on the registration of the corporation.

Notice of
intention

(2) Where the Director proposes to act under subsection (1), the Director shall serve a notice of the intention to act on the corporation.

Hearing

(3) Subsections 190 (2) and (3) apply where a notice is served under subsection (2).

Corporation
to cease
business
except
for winding
up
purposes

(4) After the revocation of a registration under this section, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as it is necessary for the winding up of its business, but any liability incurred by it may be enforced against it as if such revocation had not taken place.

Notice on
change of
status

198.—(1) On the revocation of the registration of any corporation, or the modification of any of the terms, conditions or restrictions on its registration, the Director shall cause notice in writing thereof to be delivered to it.

Idem

(2) Where the corporation has had its registration revoked, the notice shall be published by the Director in *The Ontario Gazette*.

Orders
imposing
limitations
and
conditions
or for taking
possession
and
control

199.—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council, without holding a hearing, may order,

- (a) that a corporation's registration shall be subject to such terms, conditions and restrictions as are set out in the order; or
- (b) that the Superintendent take possession and control of the assets of a provincial corporation,

where, in the opinion of the Lieutenant Governor in Council, one or more of the following has occurred:

1. There has been, on or after the 21st day of December, 1982, a transfer or issue of shares to which subsection 63 (1) or (2) applies and consent has not been obtained under section 63 or a predecessor thereof.
2. The corporation has defaulted on payment of any of its liabilities.
3. The corporation is not complying with this Act or the regulations made under this Act.

4. The corporation's assets are not satisfactorily accounted for.
5. The corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors.
6. There exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's depositors, creditors or shareholders.

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Superintendent shall deliver a copy of the order to an officer of the registered corporation.

Delivery of order

(3) An order of the Lieutenant Governor in Council under subsection (1) shall take effect immediately and the order is final and binding and no such order or any order made under subsection (5) confirming or varying such order shall be stayed, varied or set aside by any court.

Order final and binding

(4) For the purposes of this section, the Lieutenant Governor in Council may appoint such persons as the Lieutenant Governor in Council considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities.

Appointment of appraiser

(5) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order made under subsection (1), the Lieutenant Governor in Council may confirm, vary or rescind the whole or any part of such order and an order confirming or varying an order made under subsection (1) is final and binding.

L. G. in C. may confirm, vary or rescind orders

(6) Nothing in this section affects the right of the Lieutenant Governor in Council to vary or rescind, at any time, an order made under subsection (1).

Saving

200.—(1) If so ordered by the Lieutenant Governor in Council under section 199, the Superintendent shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in the Superintendent's opinion should be taken toward its rehabilitation or, where an order is made under paragraph 1 of subsection 199 (1), its continued operation, and for such purposes the Superintendent has all the powers of the board

Power of Superintendent upon taking control

of directors of the corporation, and without limiting the generality of the foregoing, the Superintendent may,

- (a) exclude the directors, officers, servants and agents of the corporation from the premises, property and business of the corporation; and
- (b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the incomes and revenues of the corporation and exercise all the powers of the corporation.

Application
to court

R.S.O. 1980,
c. 95

(2) While the Superintendent has possession and control of the assets of a provincial corporation under this section, the Superintendent may apply to the court for an order for the winding up of the corporation under Part VI of the *Corporations Act*.

Appointment
of managers

(3) Where the Superintendent is in possession and control of the assets of a provincial corporation and is conducting its business, he or she may appoint one or more persons to manage and operate the business of the corporation, and,

- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an officer or employee of the Ministry, shall be fixed by the Superintendent.

Relinquishing
control

(4) Whenever the Lieutenant Governor in Council believes that a corporation whose assets are in the possession and control of the Superintendent meets the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Where
rehabilitation
efforts futile

(5) If the Lieutenant Governor in Council considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Superintendent would be futile, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the

date specified in such direction the powers of the Superintendent under this section cease.

(6) The expenses of the Superintendent incurred in proceedings under this section or section 198 or 199 shall be paid, Expenses of proceedings

- (a) by the registered corporation; or
- (b) where the corporation that is the subject of the proceeding,
 - (i) is a loan corporation and the corporation cannot pay the full cost of the proceedings, by all registered loan corporations, or
 - (ii) is a trust corporation and the trust corporation cannot pay the full cost of proceedings, by all registered trust corporations,

and, where clause (b) applies, the share of each registered corporation shall be in the same proportion as its total assets in its last preceding fiscal year bears to the total assets of all loan corporations or trust corporations, as the case may be, in the last preceding fiscal year of each.

(7) The registered corporations required by clause (6) (b) to bear the expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Superintendent. Advisory committee

201.—(1) Notwithstanding any other provision of this Act, where the Superintendent has taken possession and control of a registered corporation under section 199, the Superintendent may apply to the High Court of Justice for an order. Application to court

- (a) authorizing some other person to conduct the business of the corporation on such terms and conditions as the court thinks fit;
- (b) authorizing and directing the sale of the assets of the corporation in whole or in part notwithstanding any provision of the *Bulk Sales Act*;
- (c) appointing interim or permanent substitute trustees in respect of all or any part of the fiduciary obligations and duties of the corporation;

- (d) authorizing or directing such other action as the court thinks appropriate and in the best interests of the depositors, persons for whom the corporation acts in a fiduciary capacity, the creditors and the public; or
- (e) staying any civil proceedings against the corporation while the Superintendent is in possession and control of the corporation.

Substituted
fiduciary

(2) Where the High Court of Justice has made an order under clause (1) (c), the fiduciary obligations and duties vest in, bind and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary was originally named as fiduciary.

Orders, etc.,
binding on
successors
and
assignees

202. Where an order or approval is made or given under this Act or a term, condition or restriction is imposed on its registration, it is binding on every successor or assignee of the corporation or other person to whom it is directed.

Over-valued
property

203.—(1) If in the opinion of the Director with respect to a registered corporation or its subsidiaries, it appears that,

- (a) the value placed upon the real estate owned by the corporation or any of its subsidiaries or any parcel thereof is too great;
- (b) the amount secured by mortgage upon any parcel of real estate, together with interest due and accrued thereon is greater than the lending value of the parcel, or that the parcel is not sufficient security for the loan and interest; or
- (c) the market value of any other investment is less than the amount shown in the books of the corporation or any of its subsidiaries,

the Director may require the corporation to secure an appraisal of such assets by one or more competent valuers or the Director may procure such appraisal at the expense of the corporation.

Idem

(2) If following an appraisal under subsection (1), it appears that the value of the asset is less than the amount at which it is carried on the books of the registered corporation or any of its subsidiaries or that the value is not adequate security for the loan and interest, the Director may order that the appraised value be reflected in calculations made for the purposes of this Act and the regulations.

(3) An order of the Director under subsection (2) shall be noted in the financial statement of the registered corporation. Idem

204.—(1) Where upon a statement made under oath it appears probable to the Superintendent that any corporation or other person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act, and in the order shall determine and prescribe the scope of the investigation. Investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine, Scope investigation

(a) the affairs of the person or corporation in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the corporation or other person and any property, assets or things owned, acquired or alienated in whole or in part by the corporation or other person or by any person or corporation acting on behalf of or as agent for the person or corporation; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the corporation or other person and the relationship that may at any time exist or have existed between the corporation or other person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable Powers to summon witnesses and require production

R.S.O. 1980,
c. 145

to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or loan or trust corporation or any officer or employee thereof from the operation of this section.

Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the corporation or other person whose affairs are being investigated.

Inspection of
seized
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the corporation or other person from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or corporation to the person appointed to make the investigation.

Accountants
and experts

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, properties and matters of the person or corporation whose affairs are being investigated.

Reports of
investigation

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Application
of
R.S.O. 1980,
c. 274

205. Section 8 of the *Ministry of Consumer and Commercial Relations Act* applies to every person appointed under subsection 204 (1) or (7).

Order to
freeze
property

206.—(1) The Superintendent may,

(a) where the Superintendent is about to order an investigation in respect of a corporation or other person under section 204 or during or after an investigation in respect of a person or corporation under section 204;

(b) where the Director is about to make or has made a decision revoking the registration of any corporation; or

- (c) where proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any corporation or other person that in the opinion of the Superintendent are connected with or arise out of any business conducted by the corporation or other person.

by any method that provides a written or printed copy, direct any corporation or other person having on deposit or under control or for safekeeping any funds, securities or assets of the corporation or other person referred to in clause (a), (b) or (c) to hold such funds or securities or assets or direct the corporation or other person referred to in clause (a), (b) or (c) to refrain from withdrawing or dealing with any such funds, securities or assets from any other person having any of them on deposit, under control or for safekeeping or to hold all funds, securities or assets in their possession or control in trust for the Superintendent, or until the Superintendent in writing revokes the direction or consents to release any particular fund or property from the direction.

(2) A direction issued under subsection (1) does not apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states and, in the case of a bank or a loan or trust corporation, the direction applies only to the offices, branches or agencies thereof named in the direction.

(3) Any person or corporation named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular funds, securities or assets, may apply to the Superintendent for an order of clarification.

(4) Upon the application of a registered corporation or other person directly affected by a direction issued under subsection (1), the Superintendent may make an order on such terms and conditions as he or she may impose revoking the direction or consenting to the release of any fund or security.

(5) In any of the circumstances mentioned in clause (1) (a), (b) or (c), the Superintendent may by any method that provides a written or printed copy notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the corporation or other person referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of pending litigation or a caution, and the Superintendent may in writing revoke or modify the notice.

Liability for
short-fall

207. Where the Director, under clause 190 (1) (a), (c) or (d), has ordered a registered corporation or any of its subsidiaries to dispose of and realize any of its investments and if the amount realized therefrom falls below the amount paid by it for such investments, the directors of the corporation are jointly and severally liable for the payment to the corporation of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he or she become aware of such investment, and is able to do so, enters his or her written protest against such investment, and within eight days thereafter notifies the Director in writing of the protest, the director of the corporation may thereby, but not otherwise, exonerate himself or herself from liability.

Order for
compliance

208.—(1) Where it appears to the Superintendent that any registered corporation or other person has failed to comply with or is not complying with,

- (a) any approval given or any order made under this Act or the regulations;
- (b) any voluntary compliance program entered into; or
- (c) any term, condition or restriction imposed on its registration,

the Superintendent, in addition to any other rights under this Act, may apply to the High Court of Justice for an order,

- (d) directing the person or corporation to comply with the decision, program or order or restraining the person or corporation from violating the approval, program, order, term, condition or restriction; and
- (e) directing the directors and officers of the person or corporation to cause the person or corporation to comply with or to cease violating the terms and conditions of any approval, any voluntary program or order of the Director or Superintendent, or term, condition or restriction imposed on its registration,

and the court may make such order as it considers appropriate.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Oppression
remedy

209.—(1) A depositor, shareholder, creditor, a person for whom the registered corporation acts in a fiduciary capacity or

the Superintendent may apply to the High Court of Justice for an order under this section.

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a registered corporation or any of its affiliates, Idem

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any shareholder, depositor, creditor or person for whom the corporation acts in a fiduciary capacity, the court may make an order to rectify the matters complained of.

(3) Where a depositor, shareholder, creditor or person for whom the corporation acts in a fiduciary capacity makes an application under subsection (1), he or she shall give notice to the Superintendent. Notice to Superintendent

(4) In connection with an application under this section, the court may make any interim or final order it thinks appropriate including, without limiting the generality of the foregoing, Court order

- (a) an order restraining the conduct complained of;
- (b) an order to regulate a corporation's affairs by amending the by-laws;
- (c) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (d) an order varying or setting aside a transaction or contract to which a registered corporation is a party and compensating the registered corporation or any other party to the transaction or contract;
- (e) an order requiring a registered corporation, within a time specified by the court, to produce to the court or an interested person financial statements or an

accounting in such other form as the court may determine;

- (f) an order compensating an aggrieved person;
- (g) an order directing rectification of the records of a corporation; or
- (h) an order requiring the trial of any issue.

Want of
prosecution

210.—(1) An application under section 209 shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any person described in subsection 209 (1) may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application to give notice to the person.

Costs

(2) A person described in subsection 209 (1) is not required to give security for costs in any application under that section.

Idem

(3) In an application under section 209, the court may at any time order the registered corporation or any of its affiliates to pay to the shareholder, depositor, creditor or person to whom the corporation acts in a fiduciary capacity or Superintendent interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application.

PART XIII

OFFENCES AND PENALTIES

Carrying on
business of
corporation
prohibited

211.—(1) No person, other than a registered corporation, shall conduct, undertake or transact in Ontario the business of a loan corporation or of a trust corporation.

Carrying on
business of
trust
corporation
prohibited

(2) No body corporate, other than a registered trust corporation, shall offer its services to the public as, or accept or execute the office of,

- (a) executor, administrator or trustee; or
- (b) guardian of any minor's estate or committee of any mentally incompetent person's estate.

Restriction
on
use of name

(3) No person, other than a registered trust corporation, shall hold itself out to the public in Ontario as a registered

trust corporation by using in its name the words "trust corporation", "trust company" or "trustco" or any similar words in its name in conjunction with its business or undertakings, unless such name was legally in use before the day this section comes into force.

(4) No corporation, other than a registered corporation, shall hold itself out to the public in Ontario as a registered corporation by conducting, undertaking or transacting any part or aspect of the business of a trust corporation or loan corporation.

Carrying on
business by
corporations

(5) No person, other than a registered corporation and a person duly authorized by it to act on its behalf, shall solicit the business of a trust corporation or loan corporation.

Matters
deemed
undertaking
business

(6) No person shall undertake, transact or solicit in Ontario any part or aspect of the business of a trust corporation or a loan corporation for a body corporate that is not registered under this Act.

Action of
promoters,
etc.

(7) No registered corporation, directly or indirectly, through a subsidiary or otherwise, unless permitted by or under this Act, shall,

Prohibition
on certain
activities

- (a) deal in goods, wares and merchandise or engage in any trade or business;
- (b) provide letters of credit or like instruments;
- (c) guarantee the performance of any obligation by a person other than the corporation or its subsidiary; or
- (d) issue notes of the corporation payable to bearer on demand and intended for circulation.

212.—(1) Every person who,

Offences

- (a) contravenes any provision of section 211;
- (b) fails to comply with any undertaking given under this Act;
- (c) fails to comply with an order made under this Act;
- (d) contravenes any provision of Part IX;

- (e) allows their name to be used on behalf of a person having a beneficial interest in a corporation for the purpose of disguising such interest;
- (f) contravenes the reporting requirements related to insider trading in respect of trust corporations or loan corporations;
- (g) traffics in a shareholder's list contrary to section 132;
- (h) accepts or receives or gives a grant or gratuity or holds shares contrary to section 177;
- (i) fails to report to the Superintendent as required under this Act; or
- (j) in the case of a registered corporation, contravenes any term, condition or restriction imposed on its registration,

is guilty of an offence.

Penalty

(2) On conviction for an offence referred to in subsection (1) or subsection 60 (4) or 61 (5), the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Derivative

(3) Every person who caused, authorized, permitted or participated in an offence referred to in subsection (1) or subsection 60 (4) or 61 (5) is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Saving,
voluntary
compliance
program

(4) Notwithstanding subsection (1), a person for whom a voluntary compliance program has been approved by the Superintendent who complies fully with such program shall not be prosecuted for or convicted of an offence in respect of the breach of this Act which the program was intended to remedy.

Saving,
disclosure

(5) A person is not guilty of an offence under clause (1) (d) if the person was not a party to the offence and reported the failure to comply with Part IX as set out in section 149 or 150.

Limitation
period

213. No proceeding for an offence under this Part shall be commenced in any court more than two years after the facts

upon which the proceedings are based first came to the knowledge of the Superintendent.

214. Where a person is guilty of an offence under this Act or the regulations, the court in which proceedings in respect of the offence are taken, in addition to any punishment it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted.

Order to
comply

215. Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Restitution

PART XIV

MISCELLANEOUS AND REGULATIONS

216. A registered corporation, without the authority, aid, assistance or intervention of any other person or official being required, may receive deposits from any person regardless of the person's age, status or condition in life, and whether the person is qualified by law to enter into ordinary contracts or not, and from time to time may pay any or all of the principal thereof and any or all of the interest thereon to or to the order of the person, unless before payment, the money on deposit is claimed by some other person in a court proceeding to which the corporation is a party and in respect of which service of a statement of claim or other process originating such proceeding has been made on the corporation, or in any other proceeding pursuant to which an injunction or order made by the court requiring the corporation not to make payment of such money or to make payment thereof to some person other than the depositor has been served on the corporation, and in the case of any such claim so made the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

Deposits
from persons
unable to
contract

217.—(1) A person who has deposits with a registered corporation not exceeding \$2,000 may, by a writing, signed by him or her and deposited with the corporation, nominate any person to receive the amount thereof at his or her death.

Direction as
to disposition
of deposits
on
death

(2) Upon receiving a statutory declaration as to the death of a person who has made a nomination under subsection (1), the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due.

Rights of
corporation

Where no
direction

(3) Where a depositor as described in subsection (1) dies without making a nomination in accordance with that subsection, the deposit may, without letters probate or letters of administration being taken out, be paid or transferred to,

- (a) the person who appears to the corporation to be entitled under the will of such depositor or in the case of intestacy under the law relating to devolution of property to receive it; or
- (b) any person who appears to the corporation to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the depositor,

upon receipt by the corporation of the statutory declaration of the person so claiming stating the time and place and death of the applicant and the facts supporting the claim.

Payments by
mistake

218. Where a registered corporation, after the death of a depositor, has paid or transferred a deposit to the person who at the time appeared to be entitled thereto, the payment or transfer is valid with respect to any demand from any other person as the legatee or next of kin or as the lawful representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit from the recipient or transferee.

Delivery of
notices

219.—(1) Delivery of any written notice or document for any purpose of this Act, where the mode is not otherwise specified, may be delivered by first class ordinary mail or first class registered mail,

- (a) in the case of a registered corporation, addressed to it or its chief executive officer at its principal place of business;
- (b) in the case of a director, addressed to the director at his or her address as shown on the records of the Superintendent; and
- (c) in the case of the Superintendent, addressed to the Superintendent at his or her office.

Idem

(2) In the case of an extra-provincial corporation, a notice or document may be delivered in accordance with clause (1) (a) or may be delivered by first class or registered mail addressed to it or its agent or any of its agents at the address thereof as set out in the most recent application filed under section 32.

220. The Lieutenant Governor in Council may make Regulations
regulations,

- (a) prescribing forms and providing for their use;
- (b) requiring the payment of fees for letters patent of incorporation and supplementary letters patent and in respect of any function performed by the Superintendent or Director under this Act or the regulations and prescribing the amounts thereof;
- (c) exempting persons holding such percentage, as may be set out in the regulation, of shares of a corporation from the requirements of section 63;
- (d) exempting classes of corporations from the requirements of section 63;
- (e) respecting the records, papers and documents to be retained by corporations and the length of time they shall be so retained;
- (f) requiring the disclosure to borrowers of terms and conditions of loans, mortgages and interest rates in lending transactions;
- (g) prescribing words or expressions that are prohibited in the name of a corporation and prescribing conditions for the use of names by corporations;
- (h) prescribing the information that shall be maintained in the Loan Corporations Register, the Trust Corporations Register and the public file of each corporation;
- (i) governing the custody and safekeeping of securities, property or trust assets registered in the name of or held by a registered corporation;
- (j) prescribing financial statements required under this Act;
- (k) prescribing information to be publicly disclosed by a corporation;
- (l) governing the reporting of information by the Trust Companies Association of Canada;
- (m) prescribing the method of calculating the capital base of a corporation, including what assets may or

may not be included therein and the manner in which the value of any such asset shall be calculated or determined for such purpose;

- (n) prescribing the method of calculating the total assets of a corporation, including the manner in which the value of any such asset shall be calculated or determined for such purpose;
- (o) prescribing classes of loans, investments or transactions for the purposes of Part IX;
- (p) prescribing limits in dollar amounts or in a percentage of total assets of investments in any asset or any class of assets and where a limit has been imposed by this Act with respect to any asset or class of assets, prescribing limits that are more restrictive than those set out in the Act;
- (q) prescribing the method of calculating liquidity of a corporation;
- (r) governing the issue of subordinated notes;
- (s) governing the establishment and operation of common trust funds and the investment of trust money in such funds;
- (t) requiring the bonding and insurance coverage of and for directors, officers, agents and employees of the corporation and of property of the corporation or held by it;
- (u) governing the activities of a registered corporation in dealing with persons who act as agents for the corporation and governing the relationships between the corporation and its agents;
- (v) prescribing terms and conditions for the establishment of subsidiaries;
- (w) relating to reports by auditors;
- (x) prescribing qualifications for appointment as an officer of a corporation;
- (y) prescribing duties for audit committees and investments committees;

- (z) prescribing any matter referred to in this Act as being prescribed by the regulations.

221. The Superintendent may exempt a trust corporation that in other respects complies with this Act from compliance with the minimum capital requirements under subsection 10 (5) or clause 33 (a), subject to such terms and conditions as may be prescribed and to such terms and conditions as the Superintendent may impose, so long as the trust corporation is offering its services primarily in a community that, in the opinion of the Superintendent, would not otherwise be adequately served by a trust corporation.

Exemption
from
minimum
capital
requirements

222.—(1) Notwithstanding any other provision of this Act, where a corporation, immediately before the coming into force of clause 33 (a) of this Act, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, the minimum capital requirements under that clause shall not apply to the corporation until the 1st day of January, 1991 so long as the corporation maintains the minimum capital requirements required by the predecessor of this Act or such greater minimum capital requirements as the Lieutenant Governor in Council may order.

Transition.
capital levels

(2) The Lieutenant Governor in Council may extend the period for compliance with minimum capital requirements under clause 33 (a), beyond the 1st day of January, 1991, subject to such terms and conditions as the Lieutenant Governor in Council may impose.

Extension
of time

(3) Notwithstanding any other provision of this Act, the board of directors of a loan corporation or a trust corporation in office immediately before the coming into force of this section may continue in office until the annual meeting next following the coming into force of this section.

Transition.
directors

(4) Notwithstanding that an investment was made by a registered corporation or any of its subsidiaries before the coming into force of this Act, the corporation or subsidiary shall divest itself of the investment within twelve months of the coming into force of this Act, if the investment, had it been made after the coming into force of this Act, would exceed any limit imposed by section 161, 165 or 166.

Transition.
quantum
limits
on
investments

223.—(1) No corporation shall carry on the business of a loan corporation or of a trust corporation after the 1st day of July, 1996.

Duration of
authority to
carry on
business

Extension
of time

(2) The Lieutenant Governor in Council may make regulations changing the date set out in subsection (1) to a date not later the 1st day of July, 1997.

PART XV

AMENDMENTS, REPEALS, COMMENCEMENT, SHORT TITLE

224.—(1) *The Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Advisory
committees

6b. Subject to the approval of the Lieutenant Governor in Council, the Minister may establish advisory committees to the Minister and sub-committees thereto, appoint chairmen and members of such committees and sub-committees, fix the terms of reference of such committees and sub-committees and fix the remuneration and expenses of the chairmen and members of such committees and sub-committees.

(2) Section 8 of the said Act is repealed and the following substituted therefor:

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry or any member of the Tribunal or anyone acting under the authority thereof for any act done in good faith in the execution or intended execution of such person's duty, or for any alleged neglect or default in the execution in good faith of such person's duty.

Idem

R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

225. Subparagraph ii of paragraph 32 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1986, c. ...

- ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act, 1986* and consists of a common trust fund as defined in section 1 of that Act.

Repeals

226. The following are repealed:

1. The *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980.
2. The *Loan and Trust Corporations Amendment Act*, 1982, being chapter 62.

227. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

228. The short title of this Act is the *Loan and Trust Corporations Act, 1986*. Short title

Bill 88

An Act to amend the Education Act

Mr. Martel

1st Reading June 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to authorize the apportionment of school rates between public and separate schools in the case of rateable property jointly owned or leased.

Bill 88

1986

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 125 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) Where more than one owner or tenant is the occupant or tenant of land, each owner or tenant shall be deemed to be a person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes and, in such case, the owners or tenants who are primarily liable for the payment of school rates may determine that the application of the rates shall be apportioned between public and separate school purposes.

Joint
ownership,
tenancy, etc.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1986*.

Short title

Bill 89

An Act respecting Insured Services under the Ontario Health Insurance Plan

Mr. Martel

1st Reading June 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to declare that surgical procedures for breast reconstruction are insured services under the Ontario Health Insurance Plan.

Bill 89

1986

An Act respecting Insured Services under the Ontario Health Insurance Plan

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding any provision to the contrary in the *Health Insurance Act*, or the regulations made thereunder, the surgical procedures set out in the Schedule below are hereby declared to be medically necessary and constitute insured services for the purposes of the Ontario Health Insurance Plan established by that Act.

Breast
reconstruction
declared
to be insured
services
R.S.O. 1980,
c. 197

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Insured Health Services Act, 1986*.

Short title

SCHEDULE

Breast reconstruction

- breast skin reconstruction by flaps or grafts
- breast mound creation by prosthesis and/or soft tissue
- nipple reconstruction by grafts

Bill 90

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

The Hon. I. Scott
Attorney General

1st Reading June 19th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to permit the extension of the police complaints procedure to municipalities other than Metropolitan Toronto on the request of the municipality.

SECTIONS 1 and 2. The amendments to the definitions adjust the terminology so that it is not confined to Metropolitan Toronto but can apply to any municipality to which the Act applies.

SECTION 3. The new section authorizes municipal by-laws to request the Lieutenant Governor in Council to designate the municipality by regulation under clause 31 (ca) of the Act as enacted by section 15 of the Bill. The regulation may only be made where such a by-law is passed.

SECTIONS 4 to 7. The amendments make no change in substance except to refer to all designated municipalities.

SECTION 8. Under the present provision the report of the Bureau's investigation is given to certain persons. The amendment would provide that the result of a further investigation by the chief of police on the request of the Commissioner be given to the same persons.

SECTION 9. The section amended now authorizes the chief of police to delegate to an officer of the rank of inspector or higher.

The amendment permits the delegation to be to a senior officer where the police force does not have the rank of inspector.

SECTION 10. The amendment removes any doubt that the appeal from the decision of a chief of police on a disciplinary hearing is to be taken under the *Metropolitan Toronto Police Force Complaints Act, 1984* and not the *Police Act*.

SECTIONS 11 to 14. See explanatory note for sections 4 to 7 except for subsection 12 (1).

Clause 23 (2) (b) of the Act makes the Attorney General a party to hearings before a board of inquiry, except when the hearing is in respect of a penalty imposed on an officer. The amendment in subsection 12 (1) ensures that the Attorney General is not excluded from participating where the officer's hearing is combined with the complainant's hearing.

SECTION 15. The amendment authorizes a municipality to be designated by regulation where it has passed a by-law requesting it.

SECTION 16. The short title of the Act is amended to remove specific reference to the Metropolitan Police Force.

Bill 90

1986

**An Act to amend the Metropolitan Toronto
Police Force Complaints Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 1 (a) and (b) of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, are repealed and the following substituted therefor:

(a) “Bureau” means a Public Complaints Investigation Bureau established under section 5.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(ca) “designated municipality” means The Municipality of Metropolitan Toronto and the municipalities that are designated by a regulation made under clause 31 (ca).

(3) Clause 1 (i) of the said Act is repealed and the following substituted therefor:

(i) “police association” means the association as defined in the *Police Act* for the police force of a designated municipality. R.S.O. 1980,
c. 381

(4) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) A reference in this Act to a police officer, chief of police, police force, Bureau, board of inquiry or panel for boards of inquiry means the one appointed or established for the designated municipality that the subject officer serves. References to
local bodies

2. Section 2 of the said Act is amended by striking out “Metropolitan Police Force” in the third line and inserting in lieu thereof “police force of a designated municipality”.

3. The said Act is amended by adding thereto the following section:

By-laws to
request
application
of Act
R.S.O. 1980,
c. 381

2a.—(1) The council of a municipality that maintains a police force other than by agreement under section 64 of the *Police Act* may by by-law request the Lieutenant Governor in Council to designate the municipality as one to which this Act applies.

Idem

(2) The council of a municipality that maintains a police force by agreement under section 63 of the *Police Act* may pass a by-law under subsection (1) only if the municipality providing the services is a designated municipality.

4. Section 3 of the said Act is amended by adding thereto the following subsections:

Local
offices

(6a) The Commissioner shall establish a local office in each designated municipality.

Communi-
cation
to Commis-
sioner
by local
office

(6b) Any matter or thing that is required or permitted by this Act to be given to or served upon the Commissioner shall be given or served at the local office of the Commissioner.

5. Subsections 4 (1), (2), (3), (4), (5) and (6) of the said Act are repealed and the following substituted therefor:

Panels for
boards of
inquiry

(1) The Lieutenant Governor in Council shall appoint a panel of persons for each designated municipality to act as members of boards of inquiry.

Recommen-
dations for
appointment

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers, who are jointly recommended for appointment by the board of commissioners of police of the designated municipality, or, where there is no board, the council, and by the police association, if any.

Failure
to make
joint
recommen-
dations

(4) If the joint recommendations referred to in subsection (3) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

(5) Before making the recommendation referred to in subsection (4), the Attorney General and Solicitor General shall consider any recommendations made by the board of commissioners of police or council alone or the police association alone.

Individual recommendations to be considered

(6) One-third of the members of the panel shall be persons recommended for appointment by the council of the designated municipality.

Recommendations for appointment

(6a) If the recommendations referred to in subsection (6) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make recommendations

(6b) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Term

6. Subsection 5 (1) of the said Act is amended by striking out "Metropolitan Police Force" in the second and third lines and inserting in lieu thereof "police force".

7. Subsection 6 (1) of the said Act is amended by striking out "Metropolitan Toronto" in the second line and inserting in lieu thereof "the designated municipality".

8. Subsection 11 (6) of the said Act is amended by adding at the end thereof "the chief of police, the complainant and the subject officer".

9. Subsection 14 (7) of the said Act is amended by inserting after "higher" in the second line "or, if none, a senior officer who is not a member of the police association".

10. Section 16 of the said Act is amended by striking out "the officer may appeal" in the third line and inserting in lieu thereof "any appeal therefrom shall be taken".

11. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of

Report

the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the board of commissioners of police or council, as the case may be, shall forward the report along with their comments and any comments submitted to them by the chief of police or the police association, to the Attorney General, the Solicitor General and the Commissioner.

12.—(1) Clause 23 (2) (b) of the said Act is amended by striking out “where an appeal” in the first line and inserting in lieu thereof “in respect of an appeal that”.

(2) Clause 23 (17) (a) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(3) Clause 23 (17) (b) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(4) Subsection 23 (20) of the said Act is amended by striking out “Metropolitan Board of Commissioners of Police” in the first line and inserting in lieu thereof “board of commissioners of police for the designated municipality or, where there is no board, the council”.

13. Subsection 26 (1) of the said Act is amended by striking out “Metropolitan Police Force” in the second and third lines and inserting in lieu thereof “police force”.

14. Section 29 of the said Act is amended by striking out “The Municipality of Metropolitan Toronto” in the second and third lines and inserting in lieu thereof “a municipality that has passed a by-law under section 2a”.

15. Section 31 of the said Act is amended by adding thereto the following clause:

(ca) designating a municipality that has passed a by-law under section 2a as a designated municipality to which this Act applies.

16. Section 36 of the said Act is repealed and the following substituted therefor:

36. The short title of this Act is the *Police Force Com-* Short title
plaints Act, 1984.

17. This Act comes into force on the day it receives Royal Commence-
Assent. ment

18. The short title of this Act is the *Metropolitan Toronto* Short title
Police Force Complaints Amendment Act, 1986.

Bill 91

An Act to amend the Human Tissue Gift Act

Mr. Poirier

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to facilitate the obtaining of human organs for transplant purposes by creating an automated register of the names of all persons entitled to insured services under the *Health Insurance Act*, indicating whether each person has filed a general or specific consent to *post mortem* organ donation, has filed an objection to the procedure or has done neither. Provision is made for the amendment of the register and for keeping it confidential.

Bill 91

1986

An Act to amend the Human Tissue Gift Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Human Tissue Gift Act*, being chapter 210 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Subsection (1) does not apply where the register referred to in subsection 8a (2) contains a record of an objection, by the person who died or whose death is imminent, to the use after death of the person's body, or of the part or parts of the body in respect of which a consent is sought, for therapeutic purposes, medical education or scientific research.

Where
objection
recorded

2. Part II of the said Act is amended by adding thereto the following section:

8a.—(1) In this section,

Definitions

“consent” means a consent given under clause (4) (1) (a);

“objection” means a person's written statement indicating that the person objects to the use after death of the person's body, or of a part or parts of the body, for therapeutic purposes, medical education or scientific research.

(2) The Minister of Health shall maintain a register containing,

Register of
consents and
objections

(a) the names and health insurance numbers of all insured persons as defined in the *Health Insurance Act*; and

R.S.O. 1980,
c. 197

(b) records of consents and objections of insured persons filed with the Ministry of Health.

(3) A record of a consent or objection contained in the register,

Nature and
amendment
of register

- (a) shall be stored electronically or on a magnetic medium so as to be capable of being retrieved by reference to the name and health insurance number of the person who gave the consent or made the objection;
- (b) shall be amended or deleted where the person who gave the consent or made the objection so requests; and
- (c) may be deleted where the Minister of Health is satisfied that the person who gave the consent or made the objection has died.

Access to
register

(4) No person shall have access to a record of a consent or objection except,

- (a) the person who gave the consent or made the objection, and his or her personal representative;
- (b) a physician who *bona fide* requires the information in connection with a proposed transplant, or a person acting on the physician's behalf; and
- (c) an employee of the Minister of Health whose duties require access to the record.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Human Tissue Gift Amendment Act, 1986*.

Bill 92

An Act to amend the Nursing Homes Act

Mr. Cooke
(Windsor-Riverside)

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill requires the financial statements of licensed nursing homes to be tabled in the Assembly and made available for public inspection.

Bill 92

1986

An Act to amend the Nursing Homes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

17a.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared a financial statement for the nursing home, including, Financial statement

- (a) a statement of profit and loss for that fiscal year; and
- (b) a budget of all projected expenditures for the next fiscal year, including details of projected expenditures for nursing care, food, recreation and other programs.

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days of the end of the licensee's fiscal year, and the Minister shall submit the financial statement to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Tabling

(3) After a financial statement has been tabled in accordance with subsection (2), the licensee shall post a copy of it in a conspicuous place at the nursing home and shall make it available for inspection by any person on request during ordinary business hours. Posting and public inspection

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Nursing Homes Amendment Act, 1986*. Short title

Bill 93

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill adds three holidays to the definition of "public holiday". They are Easter Monday, the first Monday in August and Boxing Day.

Bill 93**1986****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (l) "public holiday" means New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, the first Monday in August, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Employment Standards Amendment Act, 1986*. Short title

Bill 94

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

The Hon. M. Elston
Minister of Health

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides that physicians, dentists and optometrists who do not bill OHIP directly may not charge more than the OHIP rate for rendering an insured service to an insured person. A person who contravenes this is guilty of an offence and liable on conviction to a fine of not more than \$10,000. A judge who finds a person guilty may also order the person to pay back to the insured person any money received in excess of the OHIP rate. As an alternative, the insured person may sue the person for that excess.

The Bill also provides that the Minister of Health may enter an agreement with associations representing physicians, dentists and optometrists to provide methods of negotiating and determining the amounts payable under OHIP.

Bill 94

1986

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"dentist" means a person who is authorized under the *Health Disciplines Act* to engage in the practice of dentistry; R.S.O. 1980, c. 196

"insured person" means a person who is entitled to insured services under the *Health Insurance Act* and the regulations made under it; R.S.O. 1980, c. 197

"insured service" means a service that is an insured service under the *Health Insurance Act* and the regulations made under it;

"optometrist" means a person who is authorized under the *Health Disciplines Act* to engage in the practice of optometry;

"physician" means a legally qualified medical practitioner who is lawfully entitled to practise medicine in Ontario;

"Plan" means the Ontario Health Insurance Plan referred to in section 10 of the *Health Insurance Act*.

2. A physician or an optometrist who does not submit his or her accounts directly to the Plan under section 21 or 22 of the *Health Insurance Act* or a dentist shall not charge more or accept payment for more than the amount payable under the Plan for rendering an insured service to an insured person. Persons not to charge more than OHIP

3.—(1) The Minister of Health may enter into agreements with the associations mentioned in subsection (2), as representing the insured persons, for determining the amount of the charge for insured services. Agreement for determining amount

sentatives of physicians, dentists and optometrists, to provide for methods of negotiating and determining the amounts payable under the Plan in respect of the rendering of insured services to insured persons.

Associations (2) The associations representing physicians, dentists and optometrists are,

- (a) the Ontario Medical Association, in respect of physicians;
- (b) the Ontario Dental Association, in respect of dentists; and
- (c) the Ontario Association of Optometrists, in respect of optometrists.

Idem (3) The Lieutenant Governor in Council may make a regulation providing that the Minister may enter into an agreement under subsection (1) with a specified person or organization other than an association mentioned in subsection (2).

Offence **4.—**(1) A physician, a dentist or an optometrist who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Award for debt (2) When a defendant is convicted of an offence for charging a person more than the amount payable under the Plan, the court shall, on the request of the prosecutor and with the consent of the person, order the defendant to pay the person the amount by which the amount actually paid by the person exceeds the amount payable under the Plan.

Costs of prosecution (3) When a prosecution is conducted by a private prosecutor and the defendant is convicted, the court may determine the actual costs reasonably incurred in conducting the prosecution and, despite section 61 of the *Provincial Offences Act*, may order those costs to be paid by the defendant to the prosecutor.

R.S.O. 1980,
c. 400

Award and costs in addition to fine (4) An order under subsection (2) or an award of costs under subsection (3) shall be in addition to any fine that is imposed under subsection (1).

Civil action (5) An order under subsection (2) extinguishes the right of the person in whose favour the judgment is made to bring a civil action against the defendant to recover any money owed arising out of the same facts.

(6) The failure to request an order under subsection (2) Idem does not affect a right to bring a civil action arising out of the same facts.

(7) An order under subsection (2), and an award for costs Enforcement under subsection (3), may be filed in an appropriate civil court of competent jurisdiction and shall be deemed to be an order of that court for the purposes of enforcement.

5. This Act comes into force on a day to be named by Commence- proclamation of the Lieutenant Governor. ment

6. The short title of this Act is the *Health Care Accessi-* Short title
bility Act, 1986.

Bill 94

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

The Hon. M. Elston
Minister of Health

1st Reading April 22nd, 1986
2nd Reading April 22nd, 1986
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill provides that physicians, dentists and optometrists who do not bill OHIP directly may not charge more than the OHIP rate for rendering an insured service to an insured person. A person who contravenes this is guilty of an offence and liable on conviction to a fine of not more than \$250 for the first offence and \$1,000 for each subsequent offence. Excess payments may be repaid by the Plan to the patient and withheld from moneys owing to the practitioner by the Plan.

The Bill also provides that the Minister of Health may enter an agreement with associations representing physicians, dentists and optometrists to provide methods of negotiating and determining the amounts payable under OHIP.

Bill 94

1986

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**


HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,


Definitions

“Board” means the Health Services Appeal Board under the *Health Insurance Act*; 

R.S.O. 1980,
c. 197

“dentist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of dentistry; 

R.S.O. 1980,
c. 196

“General Manager” means the General Manager appointed under section 4 of the *Health Insurance Act*; 

“insured person” means a person who is entitled to insured services under the *Health Insurance Act* and the regulations made under it;

“insured service” means a service that is an insured service under the *Health Insurance Act* and the regulations made under it;

“Minister” means the Minister of Health; 


“optometrist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of optometry;

“physician” means a legally qualified medical practitioner who is lawfully entitled to practise medicine in Ontario;

“Plan” means the Ontario Health Insurance Plan referred to in section 10 of the *Health Insurance Act*;



“practitioner” means a physician, an optometrist or a dentist;


“unauthorized payment” means the amount of money by which the amount a practitioner has charged and been paid for rendering an insured service to an insured person exceeds the amount payable under the Plan for rendering that service to that insured person. 

Persons
not to charge
more than
OHIP
R.S.O. 1980,
c. 197

2.—(1) A physician or an optometrist who does not submit his or her accounts directly to the Plan under section 21 or 22 of the *Health Insurance Act* or a dentist shall not charge more or accept payment for more than the amount payable under the Plan for rendering an insured service to an insured person.



Account
due

(2) A practitioner referred to in subsection (1) shall not accept payment in respect of an insured service rendered to an insured person until after the practitioner receives notice that the patient has been reimbursed by the Plan unless the insured person consents to make the payment on an earlier date. 

Agreement
for
determining
amount


3.—(1) The Minister of Health may enter into agreements with the associations mentioned in subsection (2), as representatives of physicians, dentists and optometrists, to provide for methods of negotiating and determining the amounts payable under the Plan in respect of the rendering of insured services to insured persons.

Associations

(2) The associations representing physicians, dentists and optometrists are,

- (a) the Ontario Medical Association, in respect of physicians;
- (b) the Ontario Dental Association, in respect of dentists; and
- (c) the Ontario Association of Optometrists, in respect of optometrists.

Idem

(3) The Lieutenant Governor in Council may make a regulation providing that the Minister may enter into an agreement under subsection (1) with a specified person or organization other than an association mentioned in subsection (2). 

General
Manager
to pay
excess

4.—(1) Where the Minister is satisfied that a person has paid an unauthorized payment to a practitioner, the Minister may direct the General Manager to pay to the person the amount of the unauthorized payment.

(2) Where a person has paid an unauthorized payment to a practitioner and the General Manager has paid the person under subsection (1), the practitioner is indebted to the Plan for an amount equal to the sum of the amount of the unauthorized payment and the administrative charge prescribed by the regulations.

Practitioner
indebted

(3) The General Manager may recover from a practitioner part or all of any money the practitioner owes the Plan under subsection (2) by set off against any money payable to the practitioner by the Plan.

General
Manager to
recover
money

(4) If the General Manager recovers money from a practitioner under subsection (3), the General Manager shall forthwith serve on the practitioner notice of the amount recovered, the account in respect of which it was recovered and the practitioner's right under section 5 to request a review of the issue of whether the practitioner has received the unauthorized payment.

Notice of
recovery

(5) The notice under subsection (4) shall be served by registered mail addressed to the person to whom the notice is being given at the person's latest known address and the service shall be considered to have been made on the seventh day after the day of mailing unless the person to whom notice is given establishes that he or she, acting in good faith, did not receive the notice until a later date.

Service
of notice

5.—(1) A practitioner is entitled to a review of the issue of whether the practitioner has received an unauthorized payment if within fifteen days after receiving the notice under subsection 4 (4) the practitioner mails or delivers to the General Manager written notice requesting a review.

Practitioner
entitled to
review

(2) The General Manager, upon receiving a request for a review in accordance with subsection (1), shall refer the matter to the Chairman of the Board.

Referral
for review

(3) The Chairman of the Board may from time to time appoint a member of the Board to conduct a review under this Act.

Persons
to review

(4) A member of the Board conducting a review shall inquire into whether the practitioner has received an unauthorized payment.

Terms of
reference

(5) The General Manager, the practitioner and the insured person have the right to make written representations to the member of the Board conducting the review.

Right to
representations

Advise
General
Manager

(6) The member of the Board conducting a review shall advise the General Manager and the practitioner in writing as to whether, in the person's opinion, the practitioner has received an unauthorized payment and, if so, the amount of that payment.

General
Manager
to pay

(7) If the member of the Board conducting a review advises the General Manager that the General Manager recovered more from the practitioner than the sum of the unauthorized payment, if any, and the administrative charge, the General Manager shall pay the practitioner,

- (a) if the member finds there was no unauthorized payment, the total amount recovered; or
- (b) if the member finds there was an unauthorized payment, the difference between the amount recovered and the amount that should have been recovered.

Remuner-
ation of
Board

6. The members of the Board shall be paid such remuneration in respect of their services in connection with the administration of this Act as the Lieutenant Governor in Council determines.

Disclosure
of
information
R.S.O. 1980,
c. 197

7. Despite subsection 44 (1) of the *Health Insurance Act*, the General Manager, the Minister and one other person engaged in the administration of this Act who is designated in writing by the Minister may furnish to,

- (a) a member of the Board;
- (b) the person to whom insured services were rendered or where a person other than the person to whom the insured services were rendered was charged for those services, the person who was so charged; and
- (c) any other person, with the consent of the person to whom the services were rendered,

information pertaining to the nature of the insured services, the date or dates on which the insured services were provided and for whom, the name and address of the person who provided the services, the amounts paid or payable by the Plan for such services and the person to whom the money was paid or is payable, for the purpose of enforcing this Act. ▲

Offence

8.—(1) A physician, a dentist or an optometrist who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$250 for the first offence and \$1,000 for any subsequent offence.

(2) When a prosecution is conducted by a private prosecutor and the defendant is convicted, the court may determine the actual costs reasonably incurred in conducting the prosecution and, despite section 61 of the *Provincial Offences Act*, may order those costs to be paid by the defendant to the prosecutor.

Costs of
prosecution

R.S.O. 1980,
c. 400

9. The Lieutenant Governor in Council may make a regulation prescribing the administrative charge for the purpose of subsection 4 (2), such charges not to exceed \$150.

Regulations

10. Subsection 8 (1) of the *Health Insurance Act*, being chapter 197 of the Revised Statutes of Ontario, 1980, is amended by striking out "and not more than nine" in the second and third lines.

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

12. The short title of this Act is the *Health Care Accessibility Act, 1986*.

Short title



Bill 94

*(Chapter 20
Statutes of Ontario, 1986)*

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	June 20th, 1986
<i>Royal Assent</i>	June 20th, 1986

1. The first part of the document is a list of the names of the members of the committee.

2. The second part of the document is a list of the names of the members of the committee.

3. The third part of the document is a list of the names of the members of the committee.

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19. The nineteenth part of the document is a list of the names of the members of the committee.

Bill 94

1986

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Health Services Appeal Board under the *Health Insurance Act*;

R.S.O. 1980,
c. 197

“dentist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of dentistry;

R.S.O. 1980,
c. 196

“General Manager” means the General Manager appointed under section 4 of the *Health Insurance Act*;

“insured person” means a person who is entitled to insured services under the *Health Insurance Act* and the regulations made under it;

“insured service” means a service that is an insured service under the *Health Insurance Act* and the regulations made under it;

“Minister” means the Minister of Health;

“optometrist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of optometry;

“physician” means a legally qualified medical practitioner who is lawfully entitled to practise medicine in Ontario;

“Plan” means the Ontario Health Insurance Plan referred to in section 10 of the *Health Insurance Act*;

“practitioner” means a physician, an optometrist or a dentist;

“unauthorized payment” means the amount of money by which the amount a practitioner has charged and been paid for rendering an insured service to an insured person exceeds the amount payable under the Plan for rendering that service to that insured person.

Persons
not to charge
more than
OHIP
R.S.O. 1980,
c. 197

2.—(1) A physician or an optometrist who does not submit his or her accounts directly to the Plan under section 21 or 22 of the *Health Insurance Act* or a dentist shall not charge more or accept payment for more than the amount payable under the Plan for rendering an insured service to an insured person.

Account
due

(2) A practitioner referred to in subsection (1) shall not accept payment in respect of an insured service rendered to an insured person until after the practitioner receives notice that the patient has been reimbursed by the Plan unless the insured person consents to make the payment on an earlier date.

Agreement
for
determining
amount

3.—(1) The Minister of Health may enter into agreements with the associations mentioned in subsection (2), as representatives of physicians, dentists and optometrists, to provide for methods of negotiating and determining the amounts payable under the Plan in respect of the rendering of insured services to insured persons.

Associations

(2) The associations representing physicians, dentists and optometrists are,

- (a) the Ontario Medical Association, in respect of physicians;
- (b) the Ontario Dental Association, in respect of dentists; and
- (c) the Ontario Association of Optometrists, in respect of optometrists.

Idem

(3) The Lieutenant Governor in Council may make a regulation providing that the Minister may enter into an agreement under subsection (1) with a specified person or organization other than an association mentioned in subsection (2).

General
Manager
to pay
excess

4.—(1) Where the Minister is satisfied that a person has paid an unauthorized payment to a practitioner, the Minister may direct the General Manager to pay to the person the amount of the unauthorized payment.

(2) Where a person has paid an unauthorized payment to a practitioner and the General Manager has paid the person under subsection (1), the practitioner is indebted to the Plan for an amount equal to the sum of the amount of the unauthorized payment and the administrative charge prescribed by the regulations.

Practitioner
indebted

(3) The General Manager may recover from a practitioner part or all of any money the practitioner owes the Plan under subsection (2) by set off against any money payable to the practitioner by the Plan.

General
Manager to
recover
money

(4) If the General Manager recovers money from a practitioner under subsection (3), the General Manager shall forthwith serve on the practitioner notice of the amount recovered, the account in respect of which it was recovered and the practitioner's right under section 5 to request a review of the issue of whether the practitioner has received the unauthorized payment.

Notice of
recovery

(5) The notice under subsection (4) shall be served by registered mail addressed to the person to whom the notice is being given at the person's latest known address and the service shall be considered to have been made on the seventh day after the day of mailing unless the person to whom notice is given establishes that he or she, acting in good faith, did not receive the notice until a later date.

Service
of notice

5.—(1) A practitioner is entitled to a review of the issue of whether the practitioner has received an unauthorized payment if within fifteen days after receiving the notice under subsection 4 (4) the practitioner mails or delivers to the General Manager written notice requesting a review.

Practitioner
entitled to
review

(2) The General Manager, upon receiving a request for a review in accordance with subsection (1), shall refer the matter to the Chairman of the Board.

Referral
for review

(3) The Chairman of the Board may from time to time appoint a member of the Board to conduct a review under this Act.

Persons
to review

(4) A member of the Board conducting a review shall inquire into whether the practitioner has received an unauthorized payment.

Terms of
reference

(5) The General Manager, the practitioner and the insured person have the right to make written representations to the member of the Board conducting the review.

Right to
representa-
tions

Advise
General
Manager

(6) The member of the Board conducting a review shall advise the General Manager and the practitioner in writing as to whether, in the person's opinion, the practitioner has received an unauthorized payment and, if so, the amount of that payment.

General
Manager
to pay

(7) If the member of the Board conducting a review advises the General Manager that the General Manager recovered more from the practitioner than the sum of the unauthorized payment, if any, and the administrative charge, the General Manager shall pay the practitioner,

- (a) if the member finds there was no unauthorized payment, the total amount recovered; or
- (b) if the member finds there was an unauthorized payment, the difference between the amount recovered and the amount that should have been recovered.

Remuner-
ation of
Board

6. The members of the Board shall be paid such remuneration in respect of their services in connection with the administration of this Act as the Lieutenant Governor in Council determines.

Disclosure
of
information
R.S.O. 1980,
c. 197

7. Despite subsection 44 (1) of the *Health Insurance Act*, the General Manager, the Minister and one other person engaged in the administration of this Act who is designated in writing by the Minister may furnish to,

- (a) a member of the Board;
- (b) the person to whom insured services were rendered or where a person other than the person to whom the insured services were rendered was charged for those services, the person who was so charged; and
- (c) any other person, with the consent of the person to whom the services were rendered,

information pertaining to the nature of the insured services, the date or dates on which the insured services were provided and for whom, the name and address of the person who provided the services, the amounts paid or payable by the Plan for such services and the person to whom the money was paid or is payable, for the purpose of enforcing this Act.

Offence

8.—(1) A physician, a dentist or an optometrist who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$250 for the first offence and \$1,000 for any subsequent offence.

(2) When a prosecution is conducted by a private prosecutor and the defendant is convicted, the court may determine the actual costs reasonably incurred in conducting the prosecution and, despite section 61 of the *Provincial Offences Act*, may order those costs to be paid by the defendant to the prosecutor.

Costs of prosecution

R.S.O. 1980, c. 400

9. The Lieutenant Governor in Council may make a regulation prescribing the administrative charge for the purpose of subsection 4 (2), such charges not to exceed \$150.

Regulations

10. Subsection 8 (1) of the *Health Insurance Act*, being chapter 197 of the Revised Statutes of Ontario, 1980, is amended by striking out “and not more than nine” in the second and third lines.

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

12. The short title of this Act is the *Health Care Accessibility Act, 1986*.

Short title

Bill 95

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

The Hon. I. Scott
Attorney General

1st Reading June 19th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that if the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association, or the council of The Municipality of Metropolitan Toronto, fail to recommend persons for appointment to the panel for boards of inquiry as the Act requires, the Attorney General and the Solicitor General will make the recommendations instead.

Bill 95

1986

**An Act to amend the Metropolitan Toronto
Police Force Complaints Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, is amended by adding thereto the following subsections:

(3a) If the joint recommendations referred to in subsection (3) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to
make joint
recommendations

(3b) Before making the recommendation referred to in subsection (3a), the Attorney General and the Solicitor General shall consider any recommendations made by the Metropolitan Board of Commissioners of Police alone or the Metropolitan Toronto Police Association alone.

Individual
recommendations to be
considered

(4a) If the recommendations referred to in subsection (4) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure
to make
recommendations

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*.

Short title

Bill 95

*(Chapter 31
Statutes of Ontario, 1986)*

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	June 19th, 1986
<i>2nd Reading</i>	July 10th, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

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Bill 95

1986

**An Act to amend the Metropolitan Toronto
Police Force Complaints Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, is amended by adding thereto the following subsections:

(3a) If the joint recommendations referred to in subsection (3) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make joint recommendations

(3b) Before making the recommendation referred to in subsection (3a), the Attorney General and the Solicitor General shall consider any recommendations made by the Metropolitan Board of Commissioners of Police alone or the Metropolitan Toronto Police Association alone.

Individual recommendations to be considered

(4a) If the recommendations referred to in subsection (4) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make recommendations

2. This Act comes into force on the day it receives Royal Assent.

Commencement

3. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*.

Short title

Bill 96

An Act to acquire the Assets of Inco Limited

Mr. Martel

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation cannot be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

Bill 96

1986

An Act to acquire the Assets of Inco Limited

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** In this Act, "Corporation" means The Ontario Nickel Corporation. Interpretation
- 2.**—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of "The Ontario Nickel Corporation". The Ontario Nickel Corporation established
 - (2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors
 - (3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman
 - (4) The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal
- 3.**—(1) The affairs of the Corporation are under the management and control of the Board of Directors. Management
 - (2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside
 - (3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum
 - (4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws
- 4.** The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act* Powers of Board
R.S.O. 1980, c. 95

R.S.O. 1980,
c. 95

and section 23 of that Act, except clauses (1) (m), (p), (q), (r), (s), (t), (u) and (v), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act.

Head office

6. The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of
Inco vest
in the
Corporation

7. All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of
arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Ontario Municipal Board.

Idem

(2) The notice of arbitration referred to in subsection (1) shall be deemed to be a notice under clause 26 (b) of the *Expropriations Act* and, upon service of the notice, the practice and procedure under the *Expropriations Act* shall apply to the arbitration under this Act.

R.S.O. 1980,
c. 148

Application
of
R.S.O. 1980,
c. 148

9.—(1) Sections 29, 30, 33, 35 and 36 of the *Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

Idem

(2) Compensation for the assets referred to in section 7 is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in the same manner as if they were land.

(3) For the purposes of an arbitration under this Act, a reference to "expropriating authority" and to "statutory authority" in the *Expropriations Act* is a reference to the Corporation.

Interpretation

R.S.O. 1980.
c. 148

10. The compensation payable as a result of this Act stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

Compensation

11. The *Bulk Sales Act* does not apply to the transfer of assets provided for in this Act.

R.S.O. 1980.
c. 52
does not
apply

12. The Corporation shall, after the close of each fiscal year, deliver to the Minister of Natural Resources an annual report upon the affairs of the Corporation and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

13. This Act comes into force on the day it receives Royal Assent.

Commencement

14. The short title of this Act is the *Inco Limited Acquisition Act, 1986*.

Short title



Bill 97

An Act to amend the Wine Content Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading June 19th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Subsection 1 (2) of the Act prohibits wine manufacturers from using imported grapes or wine in the manufacture of wine after the 31st day of August, 1986. This date is being changed to 1987.

Bill 97**1986****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 2, section 1, is further amended by striking out "1986" in the amendment of 1984 and inserting in lieu thereof "1987".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1986*. Short title

Bill 97

(Chapter 32
Statutes of Ontario, 1986)

An Act to amend the Wine Content Act

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	June 19th, 1986
<i>2nd Reading</i>	July 8th, 1986
<i>3rd Reading</i>	July 10th, 1986
<i>Royal Assent</i>	July 10th, 1986

Bill 97**1986****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 2, section 1, is further amended by striking out "1986" in the amendment of 1984 and inserting in lieu thereof "1987".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1986*. Short title

Bill 98

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

The Hon. I. Scott
Attorney General

1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 98

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

L'honorable I. Scott
procureur général

1^{re} lecture 22 avril 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill implements the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Convention obliges contracting states to recognize and enforce foreign arbitral awards in the same way as domestic arbitral awards and to allow persons who have agreed to arbitrate an international dispute to stay other legal proceedings in order to arbitrate. It also permits contracting states to limit its application to awards originating in other contracting states and to limit its application to commercial arbitral awards.

The Bill applies to arbitration agreements and awards whether made before or after it is enacted. It provides that if a person has entered into an international arbitration agreement with regard to a commercial matter and the matter is litigated in Ontario, a party may have litigation of the matter stayed and the matter referred to arbitration, unless the arbitration agreement is found to be void, inoperative or incapable of being performed.

It also provides that a party may apply to the court for recognition of an international arbitral award made in a contracting state other than Canada under a commercial arbitration agreement. Once recognized, the award may be enforced as a judgment of the court. The court may refuse to recognize an award under the circumstances set out in section 6.

The court may stay enforcement proceedings in Ontario if an application has been made in the jurisdiction where the foreign arbitral award was made to set it aside. The Crown is bound by a foreign arbitral award to the same extent it would be by a judgment.

The Bill is to come into force on proclamation because Canada, rather than Ontario, will be a contracting state. The Bill will be proclaimed upon Canada's becoming a contracting state.

The Convention is set out in the Schedule to the Bill.

NOTES EXPLICATIVES

Le projet de loi met en oeuvre la Convention de l'Organisation des Nations Unies pour la reconnaissance et l'exécution des sentences arbitrales étrangères. La Convention oblige les États contractants à reconnaître et à exécuter les sentences arbitrales étrangères de la même façon que les sentences arbitrales nationales. La Convention permet aux personnes qui ont consenti à porter à l'arbitrage un différend international de suspendre toute autre action en justice afin de procéder à l'arbitrage. Elle permet aussi aux États contractants de restreindre son application aux sentences émanant d'autres États contractants ainsi qu'aux sentences arbitrales commerciales.

Le projet de loi s'applique aux conventions d'arbitrage et aux sentences, qu'elles soient rendues avant ou après la promulgation de la loi. Il prévoit que si une personne a conclu une convention d'arbitrage internationale concernant une affaire commerciale et si l'affaire est instruite en Ontario, une partie peut en faire suspendre l'instruction et faire renvoyer l'affaire à l'arbitrage, à moins que le tribunal ne reconnaisse que la convention d'arbitrage est caduque, inopérante ou non susceptible d'être appliquée.

Il prévoit en outre qu'une partie peut présenter au tribunal une requête en reconnaissance d'une sentence arbitrale internationale rendue dans un État contractant autre que le Canada en vertu d'une convention d'arbitrage commerciale. À la suite de sa reconnaissance, la sentence est exécutoire au même titre qu'un jugement rendu par le tribunal. Celui-ci peut refuser de reconnaître une sentence dans les circonstances énoncées dans l'article 6.

Le tribunal peut suspendre en Ontario l'instance d'exécution de la sentence arbitrale étrangère si une requête en annulation de la sentence a été présentée dans la compétence territoriale où elle a été rendue. Une sentence arbitrale étrangère lie la Couronne dans la même mesure que s'il s'agissait d'un jugement.

La loi entre en vigueur par proclamation parce que le Canada, plutôt que l'Ontario, sera un État contractant. La loi sera proclamée dès que le Canada deviendra un État contractant.

L'Annexe du projet de loi contient le texte de la Convention.

Bill 98**1986**

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

"convention
d'arbitrage"

"arbitration agreement" means an agreement in writing, whether in the form of an arbitration clause in a contract or in the form of a separate agreement, under which the parties undertake to submit to arbitration all or any disputes which have arisen or which may arise between them in respect of a legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration and recognized as commercial by the law of Ontario;

"État
contractant"

"Contracting State" means a State that is a Contracting State within the meaning of the Convention;

"Conven-
tion"

"Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration in New York on June 10, 1958, the text of which is set out in the Schedule;

"sentence
arbitrale
étrangère"

"foreign arbitral award" means an arbitral award made pursuant to an international arbitration agreement and made in the territory of a Contracting State other than Canada;

"convention
d'arbitrage
internatio-
nale"

"international arbitration agreement" means an arbitration agreement,

(a) that involves property that is outside Canada,

Projet de loi 98**1986**

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«Convention» La Convention pour la reconnaissance et l'exécution des sentences arbitrales étrangères adoptée par la Conférence des Nations Unies sur l'arbitrage commercial international tenue à New York le 10 juin 1958, et dont le texte est reproduit à l'Annexe. «Convention»

«convention d'arbitrage» Convention écrite, sous forme de clause compromissoire dans un contrat ou sous forme d'une convention séparée, aux termes de laquelle les parties décident de soumettre à l'arbitrage la totalité ou quelques-uns des différends s'élevant ou pouvant s'élever au sujet d'un rapport de droit, contractuel ou non contractuel, considéré comme commercial par la loi de l'Ontario et qui porte sur une question susceptible d'être réglée par voie d'arbitrage. «arbitration agreement»

«convention d'arbitrage internationale» Convention d'arbitrage, selon le cas : «international arbitration agreement»

- a) concernant des biens qui se trouvent à l'extérieur du Canada;
- b) prévoyant sa mise en oeuvre ou son exécution en grande partie à l'extérieur du Canada;
- c) à laquelle au moins l'une des parties est domiciliée ou réside ordinairement à l'extérieur du Canada.

«État contractant» S'entend au sens de la Convention.

«Contracting State»

- (b) that envisages substantial performance or enforcement outside Canada, or
- (c) at least one party to which is domiciled or ordinarily resident outside Canada;

“partie” “party” means a party to an arbitration agreement and includes a person claiming through or under a party.

Arbitration agreement in writing (2) An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication that provide a record of the arbitration agreement or in an exchange of statements of claim and defence in which the existence of an arbitration agreement is alleged by one party and not denied by another.

Application 2. This Act applies to foreign arbitral awards and international arbitration agreements whether made before or after the coming into force of this Act.

Referral to arbitration 3.—(1) If a proceeding commenced in any court includes a matter that the parties have agreed to arbitrate under an international arbitration agreement, the court, on motion of a party, shall refer the parties to arbitration, unless it finds that the arbitration agreement is void, inoperative or incapable of being performed.

Time of making motion (2) A party making a motion under subsection (1) shall do so no later than the time the party serves a document addressing the merits of the claim that gives rise to the motion.

Stay of court proceedings (3) If the court refers the parties to arbitration, the court shall stay the proceeding with respect to the matter to which the arbitration relates, unless that matter is contained in a defence of set-off in which case the court shall strike out the defence with respect to that matter.

Application to court 4.—(1) A party seeking to enforce a foreign arbitral award in Ontario shall apply to the Supreme Court of Ontario or to the District Court for recognition of the foreign arbitral award.

Documents to be produced (2) A party making an application under subsection (1) shall produce to the court,

- (a) the original arbitral award or a sworn or notarized copy of it; and

«partie» Partie à une convention d'arbitrage, y compris ses ayants droit. «party»

«sentence arbitrale étrangère» Sentence arbitrale rendue conformément à une convention d'arbitrage internationale dans le territoire d'un État contractant autre que le Canada. «foreign arbitral award»

(2) Une convention d'arbitrage est écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou d'un autre moyen de télécommunication qui en atteste l'existence, ou encore dans l'échange d'une déclaration et d'une défense dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas niée par l'autre. Convention d'arbitrage écrite

2 La présente loi s'applique aux sentences arbitrales étrangères et aux conventions d'arbitrage internationales, qu'elles soient rendues avant ou après l'entrée en vigueur de la présente loi. Champ d'application

3 (1) Si une instance introduite devant un tribunal comporte une question que les parties ont consenti à porter à l'arbitrage en vertu d'une convention d'arbitrage internationale, le tribunal, à la suite de la motion présentée par une partie, renvoie les parties à l'arbitrage. Toutefois, le renvoi n'a pas lieu si le tribunal constate que la convention est caduque, inopérante ou non susceptible d'être appliquée. Renvoi à l'arbitrage

(2) La partie qui présente une motion en vertu du paragraphe (1) doit le faire au plus tard le jour où elle signifie le document qui concerne le bien-fondé de la demande qui donne lieu à la motion. Délai pour présenter la motion

(3) Si le tribunal renvoie les parties à l'arbitrage, celui-ci ordonne la suspension de l'instance relativement à la question qui fait l'objet de l'arbitrage. Toutefois, si cette question figure dans une défense de compensation le tribunal radie la défense relativement à cette question. Suspension de l'instance

4 (1) La partie qui demande l'exécution d'une sentence arbitrale étrangère en Ontario présente une requête à la Cour suprême de l'Ontario ou à la Cour de district pour obtenir la reconnaissance de la sentence arbitrale étrangère. Requête de reconnaissance

(2) La partie qui présente une requête aux termes du paragraphe (1) présente au tribunal : Documents à présenter

- a) l'original de la sentence arbitrale ou une copie sous serment ou notariée de cet original;

- (b) the original arbitration agreement or a sworn or notarized copy of it.

Proof of
award

(3) A sworn or notarized statement of an arbitrator or an officer of an arbitral tribunal or board identifying a document as the arbitral award is, in the absence of evidence to the contrary, proof that the document is the original award.

Language
of award
or agreement

(4) Where a document referred to in subsection (2) is in a language other than English or French, the party seeking to enforce the foreign arbitral award shall produce to the court, in addition to the document, a translation of it into English or French and a sworn or notarized statement of the translator that the translation is accurate and complete.

Proof of
contracting
state

5. A certificate issued by or under the authority of the Secretary of State for External Affairs of Canada containing a statement that a foreign state is a Contracting State is, in the absence of evidence to the contrary, proof of the truth of the statement without proof of the signature or official character of the person having issued or certified it.

Recognition
of award

6.—(1) Subject to subsections (2) and (3), the court, if satisfied that subsections 4 (2) and (4) have been complied with, shall recognize a foreign arbitral award.

Refusal to
recognize

(2) The court may refuse to recognize a foreign arbitral award if the person against whom it is invoked satisfies the court that,

- (a) a party to the arbitration agreement was under a legal incapacity at the time the agreement was made;
- (b) the arbitration agreement is not valid under the law to which the parties subjected it or, where no law is expressly made applicable, under the law of the place where the award was made;
- (c) the person was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present a case;
- (d) the award deals with a dispute not contemplated by, or not falling within, the terms of the submission to arbitration or it contains decisions on matters beyond the scope of the submission to arbitration;

- b) l'original de la convention d'arbitrage ou une copie sous serment ou notariée de cet original.

(3) Une déclaration sous serment ou notariée d'un arbitre ou d'un agent d'un tribunal ou d'un conseil d'arbitrage qui identifie un document comme étant la sentence arbitrale fait preuve de la sentence originale, en l'absence de preuve contraire.

Preuve de la sentence

(4) Lorsqu'un document visé au paragraphe (2) est rédigé dans une langue autre que l'anglais ou le français, la partie qui demande l'exécution de la sentence arbitrale étrangère présente au tribunal, outre le document, une traduction de celui-ci en anglais ou en français ainsi que la déclaration du traducteur, sous serment ou notariée, attestant que la traduction est fidèle et complète.

Langue de la sentence ou de la convention

5 Dans toute instance, un certificat délivré par le secrétaire d'État aux Affaires extérieures du Canada ou sous son autorité et qui contient une déclaration selon laquelle un État étranger est un État contractant constitue, en l'absence de preuve contraire, une preuve de son contenu sans qu'il soit nécessaire de prouver la signature ou la qualité officielle de la personne qui l'a délivré ou certifié conforme.

Preuve de l'État contractant

6 (1) Sous réserve des paragraphes (2) et (3), le tribunal reconnaît la sentence arbitrale étrangère s'il est convaincu que les paragraphes 4 (2) et (4) ont été respectés.

Reconnaissance de sentence

(2) Le tribunal peut refuser de reconnaître une sentence arbitrale étrangère si la personne contre laquelle la sentence est invoquée le convainc de la réalité de l'un des faits suivants :

Refus de reconnaissance

- a) qu'une partie à la convention d'arbitrage était frappée d'une incapacité juridique au moment où la convention a été conclue;
- b) que la convention d'arbitrage n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, si aucune loi ne s'y applique expressément, en vertu de la loi du lieu où la sentence a été rendue;
- c) qu'elle n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir sa cause;
- d) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des

- (e) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the place where the arbitration took place; or
- (f) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the place in which, or under the law of which, it was made.

Idem

(3) The court may refuse to recognize a foreign arbitral award if the court finds that the subject-matter of the dispute is not capable of settlement by arbitration under the law of Ontario or recognition or enforcement of the award would be contrary to public policy.

Severability

(4) If the court refuses to recognize a foreign arbitral award under clause (2) (d) and the decisions on matters submitted to arbitration can be separated from those on matters not so submitted, the part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.

Enforcement

7.—(1) A foreign arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.

Idem

(2) A foreign arbitral award that is enforceable under this Act shall be binding on the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.

Stay of
enforcement
or
proceeding

8. When an application for the setting aside or suspension of a foreign arbitral award has been made to a competent authority of the place in which, or under the law of which, it was made, the court may, on motion, stay the enforcement or the proceeding on the enforcement of the award and may, on the motion of the party seeking to enforce it, order the other party to give suitable security in respect of any damage that the party seeking to enforce it may suffer as a result of the stay.

Crown
bound

9. A foreign arbitral award recognized under this Act is enforceable against the Crown as if it were a judgment.

décisions sur des questions qui dépassent les termes du compromis ou de la clause compromissoire;

- e) que la constitution du tribunal arbitral ou la procédure d'arbitrage n'était pas conforme à la convention des parties ou, à défaut de convention, qu'elle n'était pas conforme à la loi du lieu où l'arbitrage a eu lieu;
- f) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue.

(3) Le tribunal peut également refuser de reconnaître une sentence arbitrale étrangère s'il constate que l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage conformément à la loi de l'Ontario ou que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public. Idem

(4) Si le tribunal refuse de reconnaître une sentence arbitrale étrangère en vertu de l'alinéa (2) d) et que les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées. Dissociation

7 (1) La sentence arbitrale étrangère reconnue par le tribunal est exécutoire au même titre et de la même façon qu'un jugement ou qu'une ordonnance rendue par lui. Exécution

(2) La sentence arbitrale étrangère qui est exécutoire en vertu de la présente loi lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice. Idem

8 Lorsqu'une requête visant l'annulation ou la suspension d'une sentence arbitrale étrangère est présentée à une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue, le tribunal peut, sur motion, suspendre l'exécution de la sentence ou l'instance qui s'y rapporte. En outre, le tribunal peut, à la suite d'une motion de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables relatives à tout dommage que peut subir, comme résultat de la suspension, la partie qui demande l'exécution. Suspension de l'exécution ou de l'instance

9 Une sentence arbitrale étrangère reconnue en vertu de la présente loi est exécutoire contre la Couronne de la même manière et dans la même mesure que s'il s'agissait d'un jugement. Couronne liée

Rights
saved

10. Nothing in this Act affects any rights that otherwise exist to enforce a foreign arbitral award.

Commence-
ment

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Foreign Arbitral Awards Act, 1986*.

10 La présente loi n'a pas pour effet de porter atteinte aux droits relatifs à l'exécution d'une sentence arbitrale étrangère qui existent par ailleurs. Réserve

11 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

12 Le titre abrégé de la présente loi est *Loi de 1986 sur les sentences arbitrales étrangères*. Titre abrégé

SCHEDULE

New York, June 10, 1958

A. CONVENTION ON THE RECOGNITION AND ENFORCEMENT
OF FOREIGN ARBITRAL AWARDS

Article I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

Article II

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

Article III

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

ANNEXE

New York, le 10 juin 1958

A. CONVENTION POUR LA RECONNAISSANCE ET L'EXÉCUTION DES SENTENCES ARBITRALES ÉTRANGÈRES

Article premier

1. La présente Convention s'applique à la reconnaissance et à l'exécution des sentences arbitrales rendues sur le territoire d'un État autre que celui où la reconnaissance et l'exécution des sentences sont demandées, et issues de différends entre personnes physiques ou morales. Elle s'applique également aux sentences arbitrales qui ne sont pas considérées comme sentences nationales dans l'État où leur reconnaissance et leur exécution sont demandées.

2. On entend par «sentences arbitrales» non seulement les sentences rendues par des arbitres nommés pour des cas déterminés, mais également celles qui sont rendues par des organes d'arbitrage permanents auxquels les parties se sont soumises.

3. Au moment de signer ou de ratifier la présente Convention, d'y adhérer ou de faire la notification d'extension prévue à l'article X, tout État pourra, sur la base de la réciprocité, déclarer qu'il appliquera la Convention à la reconnaissance et à l'exécution des seules sentences rendues sur le territoire d'un autre État contractant. Il pourra également déclarer qu'il appliquera la Convention uniquement aux différends issus de rapports de droit, contractuels ou non contractuels, qui sont considérés comme commerciaux par sa loi nationale.

Article II

1. Chacun des États contractants reconnaît la convention écrite par laquelle les parties s'obligent à soumettre à un arbitrage tous les différends ou certains des différends qui se sont élevés ou pourraient s'élever entre elles au sujet d'un rapport de droit déterminé, contractuel ou non contractuel, portant sur une question susceptible d'être réglée par voie d'arbitrage.

2. On entend par «convention écrite» une clause compromissoire insérée dans un contrat, ou un compromis, signés par les parties ou contenus dans un échange de lettres ou de télégrammes.

3. Le tribunal d'un État contractant, saisi d'un litige sur une question au sujet de laquelle les parties ont conclu une convention au sens du présent article, renverra les parties à l'arbitrage, à la demande de l'une d'elles, à moins qu'il ne constate que ladite convention est caduque, inopérante ou non susceptible d'être appliquée.

Article III

Chacun des États contractants reconnaît l'autorité d'une sentence arbitrale et accordera l'exécution de cette sentence conformément aux règles de procédure suivies dans le territoire où la sentence est invoquée, aux conditions établies dans les articles suivants. Il ne sera pas imposé, pour la reconnaissance ou l'exécution des sentences arbitrales auxquelles s'applique la présente Convention, de conditions sensiblement plus rigoureuses, ni de frais de justice sensiblement plus élevés, que ceux qui sont imposés pour la reconnaissance ou l'exécution des sentences arbitrales nationales.

Article IV

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

- a) The duly authenticated original award or a duly certified copy thereof;
- b) The original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

- a) The parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or
- b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- e) The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

- a) The subject matter of the difference is not capable of settlement by arbitration under the law of that country; or
- b) The recognition or enforcement of the award would be contrary to the public policy of that country.

Article IV

1. Pour obtenir la reconnaissance et l'exécution visées à l'article précédent, la partie qui demande la reconnaissance et l'exécution doit fournir, en même temps que la demande :

- a) L'original dûment authentifié de la sentence ou une copie de cet original réunissant les conditions requises pour son authenticité;
- b) L'original de la convention visée à l'article II, ou une copie réunissant les conditions requises pour son authenticité.

2. Si ladite sentence ou ladite convention n'est pas rédigée dans une langue officielle du pays où la sentence est invoquée, la partie qui demande la reconnaissance et l'exécution de la sentence aura à produire une traduction de ces pièces dans cette langue. La traduction devra être certifiée par un traducteur officiel ou un traducteur juré ou par un agent diplomatique ou consulaire.

Article V

1. La reconnaissance et l'exécution de la sentence ne seront refusées, sur requête de la partie contre laquelle elle est invoquée, que si cette partie fournit à l'autorité compétente du pays où la reconnaissance et l'exécution sont demandées la preuve :

- a) Que les parties à la convention visée à l'article II étaient, en vertu de la loi à elles applicable, frappées d'une incapacité, ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du pays où la sentence a été rendue; ou
- b) Que la partie contre laquelle la sentence est invoquée n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir ses moyens; ou
- c) Que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire; toutefois, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées; ou
- d) Que la constitution du tribunal arbitral ou la procédure d'arbitrage n'a pas été conforme à la convention des parties, ou, à défaut de convention, qu'elle n'a pas été conforme à la loi du pays où l'arbitrage a eu lieu; ou
- e) Que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du pays dans lequel, ou d'après la loi duquel, la sentence a été rendue.

2. La reconnaissance et l'exécution d'une sentence arbitrale pourront aussi être refusées si l'autorité compétente du pays où la reconnaissance et l'exécution sont requises constate :

- a) Que, d'après la loi de ce pays, l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage; ou
- b) Que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public de ce pays.

Article VI

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V 1 (c), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

Article VII

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound, by this Convention.

Article VIII

1. This Convention shall be open until 31 December 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes a member of any specialized agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. The Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article IX

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article X

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to

Article VI

Si l'annulation ou la suspension de la sentence est demandée à l'autorité compétente visée à l'article V, paragraphe 1, c, l'autorité devant qui la sentence est invoquée peut, si elle l'estime approprié, surseoir à statuer sur l'exécution de la sentence; elle peut aussi, à la requête de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables.

Article VII

1. Les dispositions de la présente Convention ne portent pas atteinte à la validité des accords multilatéraux ou bilatéraux conclus par les États contractants en matière de reconnaissance et d'exécution de sentences arbitrales et ne privent aucune partie intéressée du droit qu'elle pourrait avoir de se prévaloir d'une sentence arbitrale de la manière et dans la mesure admises par la législation ou les traités du pays où la sentence est invoquée.

2. Le Protocole de Genève de 1923 relatif aux clauses d'arbitrage et la Convention de Genève de 1927 pour l'exécution des sentences arbitrales étrangères cesseront de produire leurs effets entre les États contractants du jour, et dans la mesure, où ceux-ci deviendront liés par la présente Convention.

Article VIII

1. La présente Convention est ouverte jusqu'au 31 décembre 1958 à la signature de tout État Membre des Nations Unies, ainsi que de tout autre État qui est, ou deviendra par la suite, membre d'une ou plusieurs institutions spécialisées des Nations Unies ou partie au Statut de la Cour Internationale de Justice, ou qui aura été invité par l'Assemblée générale des Nations Unies.

2. La présente Convention doit être ratifiée et les instruments de ratification déposés auprès du Secrétaire général de l'Organisation des Nations Unies.

Article IX

1. Tous les États visés à l'article VIII peuvent adhérer à la présente Convention.

2. L'adhésion se fera par le dépôt d'un instrument d'adhésion auprès du Secrétaire général de l'Organisation des Nations Unies.

Article X

1. Tout État pourra, au moment de la signature, de la ratification ou de l'adhésion, déclarer que la présente Convention s'étendra à l'ensemble des territoires qu'il représente sur le plan international, ou à l'un ou plusieurs d'entre eux. Cette déclaration produira ses effets au moment de l'entrée en vigueur de la Convention pour ledit État.

2. Par la suite, toute extension de cette nature se fera par notification adressée au Secrétaire général de l'Organisation des Nations Unies et produira ses effets à partir du quatre-vingt-dixième jour qui suivra la date à laquelle le Secrétaire général de l'Organisation des Nations Unies aura reçu la notification, ou à la date d'entrée en vigueur de la Convention pour ledit État si cette dernière date est postérieure.

3. En ce qui concerne les territoires auxquels la présente Convention ne s'applique pas à la date de la signature, de la ratification ou de l'adhésion, chaque État intéressé examinera la possibilité de prendre les mesures voulues pour étendre la Convention à ces territoires, sous réserve le cas

extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article XI

In the case of a federal or non-unitary State, the following provisions shall apply:

- a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;
- b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;
- c) A federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

Article XII

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Article XIII

1. Any Contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

Article XIV

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

échéant, lorsque des motifs constitutionnels l'exigeront, de l'assentiment des gouvernements de ces territoires.

Article XI

Les dispositions ci-après s'appliqueront aux États fédératifs ou non unitaires :

- a) En ce qui concerne les articles de la présente Convention qui relèvent de la compétence législative du pouvoir fédéral, les obligations du gouvernement fédéral seront les mêmes que celles des États contractants qui ne sont pas des États fédératifs;
- b) En ce qui concerne les articles de la présente Convention qui relèvent de la compétence législative de chacun des États ou provinces constituants, qui ne sont pas, en vertu du système constitutionnel de la fédération, tenus de prendre des mesures législatives, le gouvernement fédéral portera le plus tôt possible, et avec son avis favorable, lesdits articles à la connaissance des autorités compétentes des États ou provinces constituants;
- c) Un État fédératif Partie à la présente Convention communiquera, à la demande de tout autre État contractant qui lui aura été transmise par l'intermédiaire du Secrétaire général de l'Organisation des Nations Unies, un exposé de la législation et des pratiques en vigueur dans la fédération et ses unités constituantes, en ce qui concerne telle ou telle disposition de la Convention, indiquant la mesure dans laquelle effet a été donné, par une action législative ou autre, à ladite disposition.

Article XII

1. La présente Convention entrera en vigueur le quatre-vingt-dixième jour qui suivra la date du dépôt du troisième instrument de ratification ou d'adhésion.

2. Pour chacun des États qui ratifieront la Convention ou y adhéreront après le dépôt du troisième instrument de ratification ou d'adhésion, elle entrera en vigueur le quatre-vingt-dixième jour qui suivra la date du dépôt par cet État de son instrument de ratification ou d'adhésion.

Article XIII

1. Tout État contractant pourra dénoncer la présente Convention par notification écrite adressée au Secrétaire général de l'Organisation des Nations Unies. La dénonciation prendra effet un an après la date où le Secrétaire général de l'Organisation des Nations Unies aura reçu la notification.

2. Tout État qui aura fait une déclaration ou une notification conformément à l'article X pourra notifier ultérieurement au Secrétaire général de l'Organisation des Nations Unies que la Convention cessera de s'appliquer au territoire en question un an après la date à laquelle le Secrétaire général aura reçu cette notification.

3. La présente Convention demeurera applicable aux sentences arbitrales au sujet desquelles une procédure de reconnaissance ou d'exécution aura été entamée avant l'entrée en vigueur de la dénonciation.

Article XIV

Un État contractant ne peut se réclamer des dispositions de la présente Convention contre d'autres États contractants que dans la mesure où il est lui-même tenu d'appliquer cette convention.

Article XV

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following:

- a) Signatures and ratifications in accordance with article VIII;
- b) Accessions in accordance with article IX;
- c) Declarations and notifications under articles I, X and XI;
- d) The date upon which this Convention enters into force in accordance with article XII;
- e) Denunciations and notifications in accordance with article XIII.

Article XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article VIII.

Article XV

Le Secrétaire général de l'Organisation des Nations Unies notifiera à tous les États visés à l'article VIII :

- a) Les signatures et ratifications visées à l'article VIII;
- b) Les adhésions visées à l'article IX;
- c) Les déclarations et notifications visées aux articles premier, X et XI;
- d) La date où la présente Convention entrera en vigueur, en application de l'article XII;
- e) Les dénonciations et notifications visées à l'article XIII.

Article XVI

1. La présente Convention, dont les textes anglais, chinois, espagnol, français et russe font également foi, sera déposée dans les archives de l'Organisation des Nations Unies.

2. Le Secrétaire général de l'Organisation des Nations Unies remettra une copie certifiée conforme de la présente Convention aux États visés à l'article VIII.

Bill 98

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

The Hon. I. Scott
Attorney General

1st Reading April 22nd, 1986

2nd Reading July 2nd, 1986

3rd Reading

Royal Assent

*(Reprinted as amended by the
Committee of the Whole House)*

Projet de loi 98

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

L'honorable I. Scott
procureur général

1^{re} lecture 22 avril 1986

2^e lecture 2 juillet 1986

3^e lecture

sanction royale

*(Réimprimé tel qu'il est modifié par le
comité plénier de l'Assemblée)*

EXPLANATORY NOTES

The Bill implements the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Convention obliges contracting states to recognize and enforce foreign arbitral awards in the same way as domestic arbitral awards and to allow persons who have agreed to arbitrate an international dispute to stay other legal proceedings in order to arbitrate. It also permits contracting states to limit its application to awards originating in other contracting states and to limit its application to commercial arbitral awards.

The Bill applies to arbitration agreements and awards whether made before or after it is enacted. It provides that if a person has entered into an international arbitration agreement with regard to a commercial matter and the matter is litigated in Ontario, a party may have litigation of the matter stayed and the matter referred to arbitration, unless the arbitration agreement is found to be void, inoperative or incapable of being performed.

It also provides that a party may apply to the court for recognition of an arbitral award made outside Canada under a commercial arbitration agreement. Once recognized, the award may be enforced as a judgment of the court. The court may refuse to recognize an award under the circumstances set out in section 5.

The court may stay enforcement proceedings in Ontario if an application has been made in the jurisdiction where the foreign arbitral award was made to set it aside. The Act applies to arbitrations to which Her Majesty is a party.

The Bill is to come into force on proclamation because Canada, rather than Ontario, will be a contracting state. The Bill will be proclaimed upon Canada's becoming a contracting state.

NOTES EXPLICATIVES

Le projet de loi met en oeuvre la Convention de l'Organisation des Nations Unies pour la reconnaissance et l'exécution des sentences arbitrales étrangères. La Convention oblige les États contractants à reconnaître et à exécuter les sentences arbitrales étrangères de la même façon que les sentences arbitrales nationales. La Convention permet aux personnes qui ont consenti à porter à l'arbitrage un différend international de suspendre toute autre action en justice afin de procéder à l'arbitrage. Elle permet aussi aux États contractants de restreindre son application aux sentences émanant d'autres États contractants ainsi qu'aux sentences arbitrales commerciales.

Le projet de loi s'applique aux conventions d'arbitrage et aux sentences, qu'elles soient rendues avant ou après la promulgation de la loi. Il prévoit que si une personne a conclu une convention d'arbitrage internationale concernant une affaire commerciale et si l'affaire est instruite en Ontario, une partie peut en faire suspendre l'instruction et faire renvoyer l'affaire à l'arbitrage, à moins que le tribunal ne reconnaisse que la convention d'arbitrage est caduque, inopérante ou non susceptible d'être appliquée.

Il prévoit en outre qu'une partie peut présenter au tribunal une requête en reconnaissance d'une sentence arbitrale rendue à l'extérieur du Canada en vertu d'une convention d'arbitrage commerciale. À la suite de sa reconnaissance, la sentence est exécutoire au même titre qu'un jugement rendu par le tribunal. Celui-ci peut refuser de reconnaître une sentence dans les circonstances énoncées dans l'article 5.

Le tribunal peut suspendre en Ontario l'instance d'exécution de la sentence arbitrale étrangère si une requête en annulation de la sentence a été présentée dans la compétence territoriale où elle a été rendue. La loi s'applique à un arbitrage auquel Sa Majesté est partie.

La loi entre en vigueur par proclamation parce que le Canada, plutôt que l'Ontario, sera un État contractant. La loi sera proclamée dès que le Canada deviendra un État contractant.

Bill 98

1986

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“convention
d'arbitrage”

“arbitration agreement” means an agreement in writing, whether in the form of an arbitration clause in a contract or in the form of a separate agreement, under which the parties undertake to submit to arbitration all or any disputes which have arisen or which may arise between them in respect of a legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration and recognized as commercial by the law of Ontario;

“sentence
arbitrale
étrangère”

“foreign arbitral award” means an arbitral award made pursuant to an arbitration agreement and made outside Canada;

“convention
d'arbitrage
internatio-
nale”

“international arbitration agreement” means an arbitration agreement in respect of a legal relationship,

- (a) that involves property that is outside Canada,
- (b) that envisages substantial performance or enforcement outside Canada, or
- (c) at least one party to which is domiciled or ordinarily resident outside Canada;

“partie”

“party” means a party to an arbitration agreement and includes a person claiming through or under a party.

Projet de loi 98

1986

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«convention d'arbitrage» Convention écrite, sous forme de clause compromissoire dans un contrat ou sous forme d'une convention séparée, aux termes de laquelle les parties décident de soumettre à l'arbitrage la totalité ou quelques-uns des différends s'élevant ou pouvant s'élever au sujet d'un rapport de droit, contractuel ou non contractuel, considéré comme commercial par la loi de l'Ontario et qui porte sur une question susceptible d'être réglée par voie d'arbitrage. «arbitration agreement»

«convention d'arbitrage internationale» Convention d'arbitrage, à l'égard d'un rapport de droit, selon le cas : «international arbitration agreement»

- a) concernant des biens qui se trouvent à l'extérieur du Canada;
- b) prévoyant sa mise en oeuvre ou son exécution en grande partie à l'extérieur du Canada;
- c) à laquelle au moins l'une des parties est domiciliée ou réside ordinairement à l'extérieur du Canada.

«partie» Partie à une convention d'arbitrage, y compris ses ayants droit. «party»

«sentence arbitrale étrangère» Sentence arbitrale rendue conformément à une convention d'arbitrage à l'extérieur du Canada. «foreign arbitral award»

Arbitration
agreement in
writing

(2) An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication that provide a record of the arbitration agreement or in an exchange of statements of claim and defence in which the existence of an arbitration agreement is alleged by one party and not denied by another.

Application

2. This Act applies to foreign arbitral awards and international arbitration agreements whether made before or after the coming into force of this Act.

Referral
to
arbitration

3.—(1) If a proceeding commenced in any court includes a matter that the parties have agreed to arbitrate under an international arbitration agreement, the court, on motion of a party, shall refer the parties to arbitration, unless it finds that the arbitration agreement is void, inoperative or incapable of being performed.

Time of
making
motion

(2) A party making a motion under subsection (1) shall do so no later than the time the party serves a document addressing the merits of the claim that gives rise to the motion.

Stay of
court
proceedings

(3) If the court refers the parties to arbitration, the court shall stay the proceeding with respect to the matter to which the arbitration relates, unless that matter is contained in a defence of set-off in which case the court shall strike out the defence with respect to that matter.

Application
to court

4.—(1) A party seeking to enforce a foreign arbitral award in Ontario shall apply to the Supreme Court of Ontario or to the District Court for recognition of the foreign arbitral award.

Documents
to be
produced

(2) A party making an application under subsection (1) shall produce to the court,

(a) the original arbitral award or a sworn or notarized copy of it; and

(b) the original arbitration agreement or a sworn or notarized copy of it.

Proof of
award

(3) A sworn or notarized statement of an arbitrator or an officer of an arbitral tribunal or board identifying a document as the arbitral award is, in the absence of evidence to the contrary, proof that the document is the original award.

Language
of award
or agreement

(4) Where a document referred to in subsection (2) is in a language other than English or French, the party seeking to

(2) Une convention d'arbitrage est écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou d'un autre moyen de télécommunication qui en atteste l'existence, ou encore dans l'échange d'une déclaration et d'une défense dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas niée par l'autre.

Convention
d'arbitrage
écrite

2 La présente loi s'applique aux sentences arbitrales étrangères et aux conventions d'arbitrage internationales, qu'elles soient rendues avant ou après l'entrée en vigueur de la présente loi.

Champ d'ap-
plication

3 (1) Si une instance introduite devant un tribunal comporte une question que les parties ont consenti à porter à l'arbitrage en vertu d'une convention d'arbitrage internationale, le tribunal, à la suite de la motion présentée par une partie, renvoie les parties à l'arbitrage. Toutefois, le renvoi n'a pas lieu si le tribunal constate que la convention est caduque, inopérante ou non susceptible d'être appliquée.

Renvoi à l'ar-
bitrage

(2) La partie qui présente une motion en vertu du paragraphe (1) doit le faire au plus tard le jour où elle signifie le document qui concerne le bien-fondé de la demande qui donne lieu à la motion.

Délai pour
présenter la
motion

(3) Si le tribunal renvoie les parties à l'arbitrage, celui-ci ordonne la suspension de l'instance relativement à la question qui fait l'objet de l'arbitrage. Toutefois, si cette question figure dans une défense de compensation le tribunal radie la défense relativement à cette question.

Suspension de
l'instance

4 (1) La partie qui demande l'exécution d'une sentence arbitrale étrangère en Ontario présente une requête à la Cour suprême de l'Ontario ou à la Cour de district pour obtenir la reconnaissance de la sentence arbitrale étrangère.

Requête de
reconnais-
sance

(2) La partie qui présente une requête aux termes du paragraphe (1) présente au tribunal :

Documents à
présenter

- a) l'original de la sentence arbitrale ou une copie sous serment ou notariée de cet original;
- b) l'original de la convention d'arbitrage ou une copie sous serment ou notariée de cet original.

(3) Une déclaration sous serment ou notariée d'un arbitre ou d'un agent d'un tribunal ou d'un conseil d'arbitrage qui identifie un document comme étant la sentence arbitrale fait

Preuve de la
sentence

enforce the foreign arbitral award shall produce to the court, in addition to the document, a translation of it into English or French and a sworn or notarized statement of the translator that the translation is accurate and complete.

Recognition
of award

5.—(1) Subject to subsections (2) and (3), the court, if satisfied that subsections 4 (2) and (4) have been complied with, shall recognize a foreign arbitral award.

Refusal to
recognize

(2) The court may refuse to recognize a foreign arbitral award if the person against whom it is invoked satisfies the court that,

- (a) a party to the arbitration agreement was under a legal incapacity at the time the agreement was made;
- (b) the arbitration agreement is not valid under the law to which the parties subjected it or, where no law is expressly made applicable, under the law of the place where the award was made;
- (c) the person was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present a case;
- (d) the award deals with a dispute not contemplated by, or not falling within, the terms of the submission to arbitration or it contains decisions on matters beyond the scope of the submission to arbitration;
- (e) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the place where the arbitration took place; or
- (f) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the place in which, or under the law of which, it was made.

Idem

(3) The court may refuse to recognize a foreign arbitral award if the court finds that the subject-matter of the dispute is not capable of settlement by arbitration under the law of Ontario or recognition or enforcement of the award would be contrary to public policy.

preuve de la sentence originale, en l'absence de preuve contraire.

(4) Lorsqu'un document visé au paragraphe (2) est rédigé dans une langue autre que l'anglais ou le français, la partie qui demande l'exécution de la sentence arbitrale étrangère présente au tribunal, outre le document, une traduction de celui-ci en anglais ou en français ainsi que la déclaration du traducteur, sous serment ou notariée, attestant que la traduction est fidèle et complète.

Langue de la sentence ou de la convention

5 (1) Sous réserve des paragraphes (2) et (3), le tribunal reconnaît la sentence arbitrale étrangère s'il est convaincu que les paragraphes 4 (2) et (4) ont été respectés.

Reconnaissance de sentence

(2) Le tribunal peut refuser de reconnaître une sentence arbitrale étrangère si la personne contre laquelle la sentence est invoquée le convainc de la réalité de l'un des faits suivants :

Refus de reconnaissance

- a) qu'une partie à la convention d'arbitrage était frappée d'une incapacité juridique au moment où la convention a été conclue;
- b) que la convention d'arbitrage n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, si aucune loi ne s'y applique expressément, en vertu de la loi du lieu où la sentence a été rendue;
- c) qu'elle n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir sa cause;
- d) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions sur des questions qui dépassent les termes du compromis ou de la clause compromissoire;
- e) que la constitution du tribunal arbitral ou la procédure d'arbitrage n'était pas conforme à la convention des parties ou, à défaut de convention, qu'elle n'était pas conforme à la loi du lieu où l'arbitrage a eu lieu;
- f) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du lieu où la sentence

- Severability** (4) If the court refuses to recognize a foreign arbitral award under clause (2) (d) and the decisions on matters submitted to arbitration can be separated from those on matters not so submitted, the part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.
- Enforcement** **6.**—(1) A foreign arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.
- Idem** (2) A foreign arbitral award recognized by the court binds the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.
- Stay of enforcement or proceeding** **7.** When an application for the setting aside or suspension of a foreign arbitral award has been made to a competent authority of the place in which, or under the law of which, it was made, the court may, on motion, stay the enforcement or the proceeding on the enforcement of the award and may, on the motion of the party seeking to enforce it, order the other party to give suitable security in respect of any damage that the party seeking to enforce it may suffer as a result of the stay.
- Crown bound** **8.** This Act applies to an arbitration to which Her Majesty is a party.
- Rights saved** **9.** Nothing in this Act affects any rights that otherwise exist to enforce a foreign arbitral award.
- Commencement** **10.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title** **11.** The short title of this Act is the *Foreign Arbitral Awards Act, 1986*.

a été rendue ou en vertu de la loi duquel elle a été rendue.

(3) Le tribunal peut également refuser de reconnaître une sentence arbitrale étrangère s'il constate que l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage conformément à la loi de l'Ontario ou que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public.

Idem

(4) Si le tribunal refuse de reconnaître une sentence arbitrale étrangère en vertu de l'alinéa (2) d) et que les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées.

Dissociation

6 (1) La sentence arbitrale étrangère reconnue par le tribunal est exécutoire au même titre et de la même façon qu'un jugement ou qu'une ordonnance rendue par lui.

Exécution

(2) La sentence arbitrale étrangère reconnue par le tribunal lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice.

Idem

7 Lorsqu'une requête visant l'annulation ou la suspension d'une sentence arbitrale étrangère est présentée à une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue, le tribunal peut, sur motion, suspendre l'exécution de la sentence ou l'instance qui s'y rapporte. En outre, le tribunal peut, à la suite d'une motion de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables relatives à tout dommage que peut subir, comme résultat de la suspension, la partie qui demande l'exécution.

Suspension de l'exécution ou de l'instance

8 La présente loi s'applique à un arbitrage auquel Sa Majesté est partie.

Couronne liée

9 La présente loi n'a pas pour effet de porter atteinte aux droits relatifs à l'exécution d'une sentence arbitrale étrangère qui existent par ailleurs.

Réserve

10 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

11 Le titre abrégé de la présente loi est *Loi de 1986 sur les sentences arbitrales étrangères*.

Titre abrégé

The research group members have been involved in research for 10 years in community organizations in Ontario, Canada. The group works with women who are experiencing intimate partner violence, including sexual violence, and aims to provide support and advocacy for these women. The group has been involved in research for 10 years in community organizations in Ontario, Canada.

The research was approved by both boards of ethics at the university and the community organization. The research was approved by both boards of ethics at the university and the community organization.

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Bill 98

*(Chapter 25
Statutes of Ontario, 1986)*

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	July 2nd, 1986
<i>3rd Reading</i>	July 2nd, 1986
<i>Royal Assent</i>	July 7th, 1986

Projet de loi 98

*(Chapitre 25
Lois de l'Ontario de 1986)*

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

L'honorable I. Scott
procureur général

<i>1^{re} lecture</i>	22 avril 1986
<i>2^e lecture</i>	2 juillet 1986
<i>3^e lecture</i>	2 juillet 1986
<i>sanction royale</i>	7 juillet 1986

Bill 98**1986**

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions**1.—(1) In this Act,**

"convention
d'arbitrage"

"arbitration agreement" means an agreement in writing, whether in the form of an arbitration clause in a contract or in the form of a separate agreement, under which the parties undertake to submit to arbitration all or any disputes which have arisen or which may arise between them in respect of a legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration and recognized as commercial by the law of Ontario;

"sentence
arbitrale
étrangère"

"foreign arbitral award" means an arbitral award made pursuant to an arbitration agreement and made outside Canada;

"convention
d'arbitrage
internatio-
nale"

"international arbitration agreement" means an arbitration agreement in respect of a legal relationship,

- (a) that involves property that is outside Canada,
- (b) that envisages substantial performance or enforcement outside Canada, or
- (c) at least one party to which is domiciled or ordinarily resident outside Canada;

"partie"

"party" means a party to an arbitration agreement and includes a person claiming through or under a party.

Projet de loi 98**1986**

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«convention d'arbitrage» Convention écrite, sous forme de clause compromissoire dans un contrat ou sous forme d'une convention séparée, aux termes de laquelle les parties décident de soumettre à l'arbitrage la totalité ou quelques-uns des différends s'élevant ou pouvant s'élever au sujet d'un rapport de droit, contractuel ou non contractuel, considéré comme commercial par la loi de l'Ontario et qui porte sur une question susceptible d'être réglée par voie d'arbitrage. «arbitration agreement»

«convention d'arbitrage internationale» Convention d'arbitrage, à l'égard d'un rapport de droit, selon le cas : «international arbitration agreement»

- a) concernant des biens qui se trouvent à l'extérieur du Canada;
- b) prévoyant sa mise en oeuvre ou son exécution en grande partie à l'extérieur du Canada;
- c) à laquelle au moins l'une des parties est domiciliée ou réside ordinairement à l'extérieur du Canada.

«partie» Partie à une convention d'arbitrage, y compris ses ayants droit. «party»

«sentence arbitrale étrangère» Sentence arbitrale rendue conformément à une convention d'arbitrage à l'extérieur du Canada. «foreign arbitral award»

Arbitration
agreement in
writing

(2) An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication that provide a record of the arbitration agreement or in an exchange of statements of claim and defence in which the existence of an arbitration agreement is alleged by one party and not denied by another.

Application

2. This Act applies to foreign arbitral awards and international arbitration agreements whether made before or after the coming into force of this Act.

Referral
to
arbitration

3.—(1) If a proceeding commenced in any court includes a matter that the parties have agreed to arbitrate under an international arbitration agreement, the court, on motion of a party, shall refer the parties to arbitration, unless it finds that the arbitration agreement is void, inoperative or incapable of being performed.

Time of
making
motion

(2) A party making a motion under subsection (1) shall do so no later than the time the party serves a document addressing the merits of the claim that gives rise to the motion.

Stay of
court
proceedings

(3) If the court refers the parties to arbitration, the court shall stay the proceeding with respect to the matter to which the arbitration relates, unless that matter is contained in a defence of set-off in which case the court shall strike out the defence with respect to that matter.

Application
to court

4.—(1) A party seeking to enforce a foreign arbitral award in Ontario shall apply to the Supreme Court of Ontario or to the District Court for recognition of the foreign arbitral award.

Documents
to be
produced

(2) A party making an application under subsection (1) shall produce to the court,

- (a) the original arbitral award or a sworn or notarized copy of it; and
- (b) the original arbitration agreement or a sworn or notarized copy of it.

Proof of
award

(3) A sworn or notarized statement of an arbitrator or an officer of an arbitral tribunal or board identifying a document as the arbitral award is, in the absence of evidence to the contrary, proof that the document is the original award.

Language
of award
or agreement

(4) Where a document referred to in subsection (2) is in a language other than English or French, the party seeking to

(2) Une convention d'arbitrage est écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou d'un autre moyen de télécommunication qui en atteste l'existence, ou encore dans l'échange d'une déclaration et d'une défense dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas niée par l'autre.

Convention
d'arbitrage
écrite

2 La présente loi s'applique aux sentences arbitrales étrangères et aux conventions d'arbitrage internationales, qu'elles soient rendues avant ou après l'entrée en vigueur de la présente loi.

Champ d'ap-
plication

3 (1) Si une instance introduite devant un tribunal comporte une question que les parties ont consenti à porter à l'arbitrage en vertu d'une convention d'arbitrage internationale, le tribunal, à la suite de la motion présentée par une partie, renvoie les parties à l'arbitrage. Toutefois, le renvoi n'a pas lieu si le tribunal constate que la convention est caduque, inopérante ou non susceptible d'être appliquée.

Renvoi à l'ar-
bitrage

(2) La partie qui présente une motion en vertu du paragraphe (1) doit le faire au plus tard le jour où elle signifie le document qui concerne le bien-fondé de la demande qui donne lieu à la motion.

Délai pour
présenter la
motion

(3) Si le tribunal renvoie les parties à l'arbitrage, celui-ci ordonne la suspension de l'instance relativement à la question qui fait l'objet de l'arbitrage. Toutefois, si cette question figure dans une défense de compensation le tribunal radie la défense relativement à cette question.

Suspension de
l'instance

4 (1) La partie qui demande l'exécution d'une sentence arbitrale étrangère en Ontario présente une requête à la Cour suprême de l'Ontario ou à la Cour de district pour obtenir la reconnaissance de la sentence arbitrale étrangère.

Requête de
reconnais-
sance

(2) La partie qui présente une requête aux termes du paragraphe (1) présente au tribunal :

Documents à
présenter

a) l'original de la sentence arbitrale ou une copie sous serment ou notariée de cet original;

b) l'original de la convention d'arbitrage ou une copie sous serment ou notariée de cet original.

(3) Une déclaration sous serment ou notariée d'un arbitre ou d'un agent d'un tribunal ou d'un conseil d'arbitrage qui identifie un document comme étant la sentence arbitrale fait

Preuve de la
sentence

enforce the foreign arbitral award shall produce to the court, in addition to the document, a translation of it into English or French and a sworn or notarized statement of the translator that the translation is accurate and complete.

Recognition
of award

5.—(1) Subject to subsections (2) and (3), the court, if satisfied that subsections 4 (2) and (4) have been complied with, shall recognize a foreign arbitral award.

Refusal to
recognize

(2) The court may refuse to recognize a foreign arbitral award if the person against whom it is invoked satisfies the court that,

- (a) a party to the arbitration agreement was under a legal incapacity at the time the agreement was made;
- (b) the arbitration agreement is not valid under the law to which the parties subjected it or, where no law is expressly made applicable, under the law of the place where the award was made;
- (c) the person was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present a case;
- (d) the award deals with a dispute not contemplated by, or not falling within, the terms of the submission to arbitration or it contains decisions on matters beyond the scope of the submission to arbitration;
- (e) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the place where the arbitration took place; or
- (f) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the place in which, or under the law of which, it was made.

Idem

(3) The court may refuse to recognize a foreign arbitral award if the court finds that the subject-matter of the dispute is not capable of settlement by arbitration under the law of Ontario or recognition or enforcement of the award would be contrary to public policy.

preuve de la sentence originale, en l'absence de preuve contraire.

(4) Lorsqu'un document visé au paragraphe (2) est rédigé dans une langue autre que l'anglais ou le français, la partie qui demande l'exécution de la sentence arbitrale étrangère présente au tribunal, outre le document, une traduction de celui-ci en anglais ou en français ainsi que la déclaration du traducteur, sous serment ou notariée, attestant que la traduction est fidèle et complète.

Langue de la
sentence ou
de la conven-
tion

5 (1) Sous réserve des paragraphes (2) et (3), le tribunal reconnaît la sentence arbitrale étrangère s'il est convaincu que les paragraphes 4 (2) et (4) ont été respectés.

Reconnais-
sance de
sentence

(2) Le tribunal peut refuser de reconnaître une sentence arbitrale étrangère si la personne contre laquelle la sentence est invoquée le convainc de la réalité de l'un des faits suivants :

Refus de
reconnais-
sance

- a) qu'une partie à la convention d'arbitrage était frappée d'une incapacité juridique au moment où la convention a été conclue;
- b) que la convention d'arbitrage n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, si aucune loi ne s'y applique expressément, en vertu de la loi du lieu où la sentence a été rendue;
- c) qu'elle n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir sa cause;
- d) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions sur des questions qui dépassent les termes du compromis ou de la clause compromissoire;
- e) que la constitution du tribunal arbitral ou la procédure d'arbitrage n'était pas conforme à la convention des parties ou, à défaut de convention, qu'elle n'était pas conforme à la loi du lieu où l'arbitrage a eu lieu;
- f) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du lieu où la sentence

- Severability (4) If the court refuses to recognize a foreign arbitral award under clause (2) (d) and the decisions on matters submitted to arbitration can be separated from those on matters not so submitted, the part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.
- Enforcement **6.**—(1) A foreign arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.
- Idem (2) A foreign arbitral award recognized by the court binds the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.
- Stay of enforcement or proceeding **7.** When an application for the setting aside or suspension of a foreign arbitral award has been made to a competent authority of the place in which, or under the law of which, it was made, the court may, on motion, stay the enforcement or the proceeding on the enforcement of the award and may, on the motion of the party seeking to enforce it, order the other party to give suitable security in respect of any damage that the party seeking to enforce it may suffer as a result of the stay.
- Crown bound **8.** This Act applies to an arbitration to which Her Majesty is a party.
- Rights saved **9.** Nothing in this Act affects any rights that otherwise exist to enforce a foreign arbitral award.
- Commence-ment **10.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **11.** The short title of this Act is the *Foreign Arbitral Awards Act, 1986*.

a été rendue ou en vertu de la loi duquel elle a été rendue.

(3) Le tribunal peut également refuser de reconnaître une sentence arbitrale étrangère s'il constate que l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage conformément à la loi de l'Ontario ou que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public. Idem

(4) Si le tribunal refuse de reconnaître une sentence arbitrale étrangère en vertu de l'alinéa (2) d) et que les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées. Dissociation

6 (1) La sentence arbitrale étrangère reconnue par le tribunal est exécutoire au même titre et de la même façon qu'un jugement ou qu'une ordonnance rendue par lui. Exécution

(2) La sentence arbitrale étrangère reconnue par le tribunal lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice. Idem

7 Lorsqu'une requête visant l'annulation ou la suspension d'une sentence arbitrale étrangère est présentée à une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue, le tribunal peut, sur motion, suspendre l'exécution de la sentence ou l'instance qui s'y rapporte. En outre, le tribunal peut, à la suite d'une motion de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables relatives à tout dommage que peut subir, comme résultat de la suspension, la partie qui demande l'exécution. Suspension de l'exécution ou de l'instance

8 La présente loi s'applique à un arbitrage auquel Sa Majesté est partie. Couronne liée

9 La présente loi n'a pas pour effet de porter atteinte aux droits relatifs à l'exécution d'une sentence arbitrale étrangère qui existent par ailleurs. Réserve

10 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

11 Le titre abrégé de la présente loi est *Loi de 1986 sur les sentences arbitrales étrangères*. Titre abrégé

Bill 99

An Act to require Disclosure of the Use of Hazardous Substances

Mr. Martel

1st Reading April 22nd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill requires disclosure by employers of the production, use, storage, emission or disposal of substances designated by the Minister of Labour as hazardous to human health or to the environment and provides for access to disclosure reports by any person. The Ministry is required to supply, on request, health and safety information with respect to each hazardous substance. The names of persons requesting information are kept confidential.

Employers are required to adequately label hazardous substances kept in the work place and to institute programs for workers on the proper handling of hazardous substances.

Bill 99

1986

An Act to require Disclosure of the Use of Hazardous Substances

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"employer", "work place" and "worker" have the meanings attributed to them under the *Occupational Health and Safety Act*;

R.S.O. 1980.
c. 321

"hazardous substance" means a substance or combination of substances designated as hazardous under section 3;

"inspector" means an inspector appointed for the purposes of this Act or appointed under the *Occupational Health and Safety Act*;

"Minister" means the Minister of Labour;

"Ministry" means the Ministry of Labour.

2.—(1) An employer who produces, uses in manufacturing, processing or packaging, stores, emits into the air, land or water or disposes of a hazardous substance shall file an annual disclosure report in accordance with subsection 3 (2).

Disclosure
required

(2) An employer shall file an interim disclosure report within fifteen days in respect of the production, use, storage, emission or disposal of a hazardous substance that commences within the eleven months following the employer's annual filing.

Interim
disclosure

3.—(1) The Minister shall designate substances or combinations of substances as hazardous to human health or to the environment in accordance with the criteria set out in the regulations.

Designation
of hazardous
substances

Contents of
disclosure
report

(2) A disclosure report filed under section 2,

- (a) shall identify the hazardous substances that the employer produces, uses, stores, emits or disposes of;
- (b) shall state the purpose for producing, using or storing the hazardous substance or the reason for emitting or disposing of it; and
- (c) shall state, for every hazardous substance identified,
 - (i) the municipal address of every place at which the employer produces, uses, stores, emits or disposes of it, and
 - (ii) the quantities of it involved at each place.

Exemptions
from
disclosure

4. An employer is not required to file a disclosure report with respect to a hazardous substance that is used, stored, emitted or disposed of in quantities of less than 1 kilogram or 1 litre per year or that is a consumer product.

Protection of
trade secrets

5.—(1) An employer shall not refuse to file a disclosure report on the grounds that disclosure will reveal a trade secret or otherwise prejudice the employer's financial or commercial interests.

Referral to
arbitration

(2) An employer who wishes to protect information in respect of a hazardous substance may apply to the Minister to have the matter dealt with by final and binding settlement by arbitration.

Composition
and
appointment
of arbitral
board

(3) An application under subsection (2) shall be referred to an arbitral board composed of one representative each from industry, labour and the community appointed by the Minister of Labour with the approval of the Lieutenant Governor in Council.

Decision
of board

(4) An arbitral board may approve the protection of the name of the hazardous substance that is the subject of the application but not of its nature or the hazards associated with it.

Access to
disclosure
reports

6.—(1) Any person may at all reasonable times have access to a disclosure report filed with the Ministry.

Health and
safety data

(2) On the request of any person, the Ministry shall supply within a reasonable time health and safety data and provide access to information available from the Canadian Centre of

Occupational Health and Safety in respect of any hazardous substance, including,

- (a) the chemical composition and properties of the substance;
- (b) the health hazards associated with it, including acute and chronic effects; and
- (c) the precautionary, protective and remedial measures to be taken in connection with it.

(3) The Ministry shall not disclose the name of any person who has made a request for access to a disclosure report or to obtain health and safety information under this section.

Anonymity
of
applicants

(4) Part VI of the *Occupational Health and Safety Act* prohibiting reprisals by an employer because a worker has sought the enforcement of that Act applies with all necessary modifications with respect to a worker seeking enforcement of this Act.

Reprisals
prohibited
R.S.O. 1980,
c. 321

7.—(1) An employer shall ensure that hazardous substances kept in the work place, whether in containers or in piping systems, are clearly labelled to display, with respect to each hazardous substance,

Labelling of
hazardous
substances

- (a) its chemical composition and properties;
- (b) its generic name; and
- (c) the handling precautions to be taken to ensure its safe use.

(2) An employer shall establish continuing programs to educate workers in the handling, storage, use, disposal and transport of any hazardous substance with which they may come in contact in the work place.

Education
programs

8.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector shall inspect the premises of an employer required to file a disclosure report under section 2 at least once every three years.

Inspection
of premises

(2) An inspector may, in connection with an inspection under subsection (1),

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- (a) enter in or upon any work place that is not a dwelling at any time without warrant or notice; and

- (b) conduct tests of any biological, chemical or physical agent in the work place and for this purpose take and carry away samples.

Obstruction
of inspector

(3) No person shall obstruct or interfere with an inspector in an inspection under this section.

Penalty

9. Every employer who contravenes or fails to comply with a provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Regulations

10. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) providing for and prescribing fees;
- (c) establishing criteria for the designation of hazardous substances;
- (d) setting out the procedure to be followed in respect of arbitration.

Commence-
ment

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Hazardous Substances Reporting Act, 1986*.





